

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF OHIO
3 WESTERN DIVISION

4 UNITED STATES OF AMERICA, - Docket No. 3:06-CR-719
5 Plaintiff, -
6 v. - Toledo, Ohio
7 - May 6, 2008
8 - Trial
9 -
10 MOHAMMAD ZAKI AMAWI, et al., -
11 Defendants. -
12 -----

13 VOLUME 44, TRANSCRIPT OF TRIAL
14 BEFORE THE HONORABLE JAMES G. CARR
15 UNITED STATES DISTRICT CHIEF JUDGE, AND A JURY

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1 (Reconvened at 8:55 a.m.)

2 THE COURT: Are we ready to go?

00:00:02 **3** MR. HERDMAN: We are.

00:00:03 **4** THE COURT: Counsel, ready to go?

00:00:05 **5** MR. HARTMAN: We are.

-08:-55:-51 **6** THE COURT: I'm sorry for the delay.

00:00:12 **7** MR. SOFER: Judge, defense has raised an issue with

00:00:15 **8** respect to Jencks. We'd like to turn documents over. We don't

-08:-55:-51 **9** have to deal with it now, but give you a chance to take a look

-08:-55:-51 **10** at them during a break.

00:00:26 **11** THE COURT: These are?

00:00:29 **12** MR. SOFER: There was an e-mail last night from Mr.

00:00:32 **13** Boss and Mr. Hartman related to an issue with respect to Jencks.

-08:-55:-51 **14** If you get a chance at the break or whatever --

00:03:06 **15** (Jury enters the courtroom.)

00:03:06 **16** THE COURT: As you are well aware, unhappily it's

-08:-55:-51 **17** my custom to start out every morning with an apology for the

-08:-55:-51 **18** delay. Let me simply say, I suspect, like many of you, you are

00:03:21 **19** trying to squeeze in all the other things that you otherwise

00:03:24 **20** would be doing if you weren't spending your days here and trying

-08:-55:-51 **21** to tend to those other things, and that's what happened to me

-08:-55:-51 **22** this morning. There were some matters I had to tend to in

-08:-55:-51 **23** dealing with other aspects of my job, and it took longer than I

00:03:43 **24** anticipated. Which, of course, is typically the case. I

-08:-55:-51 **25** appreciate your patience.

00:03:48 **1** It's my understanding in a moment the government
00:03:52 **2** will offer a videotape deposition of the accountant who was
-08:-55:-51 **3** visited by Mr. El-Hindi and Mr. Griffin, Mr. Dahabi, who is
00:04:05 **4** unable -- and don't wonder why he can't come to court. So the
-08:-55:-51 **5** parties agree that he could be questioned under oath and that
-08:-55:-51 **6** the deposition thereby be created, which was videotaped, could
-08:-55:-51 **7** be considered by you as the -- to the same extent, to the same
00:04:27 **8** degree as if he were here in the courtroom on the stand.

-08:-55:-51 **9** There may be some sort of breaks in the flow of the
00:04:35 **10** deposition, and that's simply because at my suggestion the
-08:-55:-51 **11** parties worked together to take out a couple of instances where
-08:-55:-51 **12** there was an objection or ruling by me one way or the other.
-08:-55:-51 **13** So don't kind of wonder, gee, what is that flicker or somehow
00:04:57 **14** not a direct flow in the questioning or conversation. Just
-08:-55:-51 **15** ignore that.

00:05:03 **16** Basically what you are about to see and listen to
00:05:07 **17** is evidence, and it can be considered by you as evidence to the
-08:-55:-51 **18** same extent as all the other evidence in the case. And it's my
00:05:16 **19** understanding after that videotape -- which if memory serves,
00:05:21 **20** it's about an hour.

00:05:24 **21** MR. SOFER: A little less than that with
00:05:26 **22** redactions.

00:05:27 **23** THE COURT: The government, I believe, anticipates
00:05:29 **24** calling Special Agent Shannon Coats of the FBI who worked with
-08:-55:-51 **25** Mr. Griffin for a fair portion of the duration of the

-08:-55:-51 **1** investigation. Okay. So if technology cooperates and works --

00:05:49 **2** MR. SOFER: We'll give it our best shot, Judge.

-08:-55:-51 **3** THE COURT: And if memory serves, the direct

00:05:54 **4** examination was conducted by Mr. Hartman.

-08:-55:-51 **5** MR. HARTMAN: Correct, Your Honor.

-08:-55:-51 **6** THE COURT: And the fact that he conducted the

-08:-55:-51 **7** direct and -- I can't remember which government attorney, Mr.

-08:-55:-51 **8** Getz maybe, conducted the cross-examination, that sequence makes

-08:-55:-51 **9** no difference. Okay.

00:06:14 **10** MR. SOFER: For the record, this is Government's

00:06:18 **11** Exhibit Number 200.

00:07:01 **12** (Video deposition played.)

00:07:09 **13** THE COURT: Ladies and gentlemen, you hear my voice

-08:-55:-51 **14** because Mr. Dahabi, in fact, was sitting in that chair. In

-08:-55:-51 **15** other words, we tried to replicate the circumstances as if he

-08:-55:-51 **16** were present in court.

-08:-55:-51 **17** And there is reference to the fact that at the time

-08:-55:-51 **18** he was in custody. Ignore that. It has nothing to do with his

-08:-55:-51 **19** testimony or the evidence that you are hearing, simply the

-08:-55:-51 **20** circumstance that it existed at that time. And also that is

00:07:45 **21** not -- his being in custody, that is not why he's not available

-08:-55:-51 **22** to testify today.

-08:-55:-51 **23** I'll try to refrain from any further interruption.

00:07:56 **24** MR. SOFER: There were a number of exhibits, as I

-08:-55:-51 **25** understand it, introduced during the course of Mr. Dahabi's

00:08:04 **1** testimony. And we can stop the tape and publish them, or we
-08:-55:-51 **2** can proceed however Your Honor wishes us to. But we have those
00:08:16 **3** physical exhibits here.

-08:-55:-51 **4** THE COURT: I think it would probably make better
-08:-55:-51 **5** sense for the jury's comprehension of his testimony if we did
-08:-55:-51 **6** stop and perhaps display them on the screen.

00:08:26 **7** MR. SOFER: Okay.

-08:-55:-51 **8** THE COURT: Is that okay, Counsel?

-08:-55:-51 **9** MR. HARTMAN: I agree.

00:08:34 **10** THE COURT: Okay.

00:08:45 **11** (Video deposition continues.)

00:14:40 **12** MR. SOFER: Judge, for the record, we'll put up 1C,
-08:-55:-51 **13** which is a multipage exhibit.

00:15:08 **14** THE COURT: What exhibit?

00:15:10 **15** MR. SOFER: 1C, Your Honor.

00:15:12 **16** THE COURT: Dahabi testimony 1C?

00:15:15 **17** MR. SOFER: 200-1C. It's eight pages.

00:15:29 **18** Can everybody see that?

00:15:45 **19** If you look up when you're done, I'll know to
-08:-55:-51 **20** switch the pages.

00:16:25 **21** (Document displayed).

00:18:26 **22** (Video deposition continues.)

00:20:25 **23** MR. SOFER: Your Honor, we'll display to the jury
-08:-55:-51 **24** 1B, which is the first document that was referred to in the
-08:-55:-51 **25** deposition.

-08:-55:-51 **1** THE COURT: Fine.

00:20:36 **2** (Document displayed.)

-08:-55:-51 **3** THE COURT: It's a little difficult. Can you make

00:20:45 **4** it a little bit -- enlarge it a bit?

00:21:02 **5** That's better. Just so the jury can understand

-08:-55:-51 **6** what the nature of the document is.

00:21:19 **7** MR. SOFER: This is 200-1B.

00:22:12 **8** (Document displayed.)

00:23:33 **9** MR. SOFER: That was 200-1B. This is the document

00:23:40 **10** I believe referred to as the rejection.

00:24:43 **11** (Document displayed - 1A.)

00:25:08 **12** (Video deposition continues.)

01:14:01 **13** THE COURT: Ladies and gentlemen, why don't we take

01:14:03 **14** our mid-morning break, then we'll resume.

01:37:51 **15** (Whereupon the following discussion was had at the

-08:-55:-51 **16** bench outside the hearing of the jury:)

-08:-55:-51 **17** THE COURT: What's the Jencks -- I got an e-mail,

-08:-55:-51 **18** which I printed out, from Mr. Hartman.

-08:-55:-51 **19** MR. SOFER: We received the e-mail from Mr. Boss, I

-08:-55:-51 **20** think it was, last night indicating that Mr. Boss had looked at

-08:-55:-51 **21** a 302 which had been turned over as part of the discovery

-08:-55:-51 **22** materials with respect to Mr. Griffin's testimony, and that the

-08:-55:-51 **23** 302 indicated that there were notes, written answers to written

-08:-55:-51 **24** questions by government's cooperating witness. And we went

-08:-55:-51 **25** back and took a look at it. Indeed it does say in the 302 that

-08:-55:-51 **1** there were written answers to written questions that were
-08:-55:-51 **2** supplied to Mr. Griffin. We managed to find those written
-08:-55:-51 **3** answers and written questions. What I've given to the Court is
-08:-55:-51 **4** the document that the defense received in discovery, then an
-08:-55:-51 **5** unredacted copy that you can see what it is redacted. Then the
-08:-55:-51 **6** notes themselves which contain information that relates to the
-08:-55:-51 **7** redacted and unredacted materials in the 302. The government's
-08:-55:-51 **8** position on this document is simply A -- and Mr. Boss said
-08:-55:-51 **9** something once again about some lie that he believes he's
-08:-55:-51 **10** discovered.

-08:-55:-51 **11** A, counsel had 302 in their possession to
-08:-55:-51 **12** cross-examine the witness with. We submit to Your Honor if you
-08:-55:-51 **13** look at the notes versus what's in the 302 they are duplicative.
-08:-55:-51 **14** Meaning anything that was in the notes counsel already had an
-08:-55:-51 **15** opportunity to cross-examine the witness on. So the government
-08:-55:-51 **16** believes and it actually says in the 3502 there are written
-08:-55:-51 **17** answers to written questions also. So that's our position.

-08:-55:-51 **18** Now, one thing I will say is this has caused us
-08:-55:-51 **19** some concern obviously because, frankly, I was unaware --
-08:-55:-51 **20** government counsel is unaware of the existence of those notes;
-08:-55:-51 **21** as we prepared the case we didn't recognize this. But for this
-08:-55:-51 **22** group of notes, that's our position. We think it's duplicative,
-08:-55:-51 **23** not an issue. At the moment, as we speak, we have sent forth
-08:-55:-51 **24** people to make sure that no other material like this exists and
-08:-55:-51 **25** we're awaiting the final determination about that.

1 But with respect to the particular issue that's

2 been brought to the Court's attention, the reason you have those

3 three documents is the notes themselves again do relate to some

4 of the redacted materials and that's why we submitted them to

5 the Court, and it is our position that they are duplicative and

6 therefore there is no issue there. Counsel has had full and

7 fair opportunity to cross-examine the witness on anything in

8 those documents.

9 MR. HARTMAN: When you say "notes", do you mean the

10 actual written answers to the questions?

11 MR. SOFER: What it is is a series of questions

12 typed out, then written answers.

13 THE COURT: In other words, it's questions and then

14 there are very cryptic yes, no, what, X, Y -- in other words,

15 kind of sort of like a fill-in-the-blank very cryptically.

16 Then I will reread this stuff. As I read it I figured what's

17 all this about? It's in English at least, but beyond that I

18 didn't know what the deal was. I'll look at it during the noon

19 hour with an eye to determining whether there's anything

20 inconsistent between the fill-in-the-blanks notes and the

21 narrative that was provided to me, which, I assume, will be the

22 end of the issue assuming there's nothing owed.

23 MR. HARTMAN: I would add, number one, well, I

24 would add that the 302 is not a statement that gets adopted by

25 Griffin. It's the agent's statement. And if written

-08:-55:-51 **1** statement, answer, is Griffin's.

-08:-55:-51 **2** THE COURT: No, it's the agent's note.

-08:-55:-51 **3** MR. SOFER: I think there's a combination of

-08:-55:-51 **4** things.

-08:-55:-51 **5** THE COURT: I'll look at it. The issue is whether

-08:-55:-51 **6** there's anything inconsistent between the 302.

-08:-55:-51 **7** MR. HARTMAN: With all due respect to Your Honor,

-08:-55:-51 **8** the way I read it, it sounded to me like Griffin was provided

-08:-55:-51 **9** with questions, he wrote answers and gave them back.

-08:-55:-51 **10** THE COURT: Did Griffin write the answers?

-08:-55:-51 **11** MR. SOFER: Indeed. What I wanted to say, I

-08:-55:-51 **12** believe if you look at that there are both agents' notes; there

-08:-55:-51 **13** may even be multiple agents notes plus Mr. Griffin's notes.

-08:-55:-51 **14** The last complicating factor is some of the notes

-08:-55:-51 **15** on there do not relate to the direct testimony of Mr. Griffin.

-08:-55:-51 **16** It was information, if it was brought up at all, that came up on

-08:-55:-51 **17** cross-examination so it wouldn't be Jencks either. There's a

-08:-55:-51 **18** conglomeration in there that doesn't fall under the Jencks

-08:-55:-51 **19** statute.

-08:-55:-51 **20** THE COURT: To the extent it's stuff from Griffin,

-08:-55:-51 **21** then the issue is whether it's inconsistent with his testimony,

-08:-55:-51 **22** right?

-08:-55:-51 **23** MR. SOFER: And whether or not counsel had a full

-08:-55:-51 **24** and fair opportunity to sort of -- in other words, the 302 is a

-08:-55:-51 **25** description of what Griffin's notes are, Judge, so it's not as

-08:-55:-51 **1** if -- that's something else the Court can examine, but we
-08:-55:-51 **2** believe if you look at the 302 and look at his notes, it's the
-08:-55:-51 **3** same information. And it says on there he's supplied with
-08:-55:-51 **4** questions and he gave answers and it lists information.

-08:-55:-51 **5** MR. BRYAN: One other matter before we begin Agent
-08:-55:-51 **6** Coats' testimony. I wanted to make sure to renew the motion for
-08:-55:-51 **7** separation of witnesses. We have concerns that there may be
-08:-55:-51 **8** another.

-08:-55:-51 **9** MR. SOFER: Just so it's clear, Judge, we have two
-08:-55:-51 **10** other agents in the courtroom now, one of them is Special Agent
-08:-55:-51 **11** Gubanich who's going to testify. The agent next to him, as I
-08:-55:-51 **12** understand it, is not on the witness list, not somebody the
-08:-55:-51 **13** defense is interested in and I don't believe he's received any
-08:-55:-51 **14** subpoenas or anything of that nature. Up until now, he's been
-08:-55:-51 **15** charged, among other things, with security.

-08:-55:-51 **16** THE COURT: I understand. Will Gubanich be outside
-08:-55:-51 **17** when Coats testifies?

-08:-55:-51 **18** MR. SOFER: You may recall, Your Honor, initially
-08:-55:-51 **19** defense counsel had said one agent only. We requested that
-08:-55:-51 **20** given the complexity of the case two agents be allowed in.

-08:-55:-51 **21** THE COURT: Okay.

-08:-55:-51 **22** MR. SOFER: If --

-08:-55:-51 **23** MR. TERESINSKI: It would be those two.

-08:-55:-51 **24** MR. SOFER: Can you give us an idea, Counsel, an
-08:-55:-51 **25** idea of how long cross-examination will take so we can do some

-08:-55:-51 **1** scheduling, approximately?

-08:-55:-51 **2** MR. BRYAN: Two, three hours.

-08:-55:-51 **3** MR. SOFER: Two, three hours maximum for him.

-08:-55:-51 **4** MR. BRYAN: The same for cross.

-08:-55:-51 **5** MR. HARTMAN: Depending on what they cover, and

-08:-55:-51 **6** they're going first, I would think an hour-and-a-half to two

-08:-55:-51 **7** hours.

-08:-55:-51 **8** THE COURT: Assume we'll finish him tomorrow.

-08:-55:-51 **9** MR. HERDMAN: To clarify with Agent Gubanich, do

-08:-55:-51 **10** you want him excluded or can he sit in?

-08:-55:-51 **11** THE COURT: It's up to you. He can sit in but it

-08:-55:-51 **12** might make sense that he be excluded from this agent's

-08:-55:-51 **13** testimony.

-08:-55:-51 **14** MR. BOSS: We would request he be excluded.

-08:-55:-51 **15** THE COURT: It's its issue to argue on appeal.

-08:-55:-51 **16** (End of side-bar discussion.)

01:37:56 **17** THE COURT: Call your next witness.

01:37:58 **18** MR. SOFER: Your Honor, the government calls

-08:-55:-51 **19** Special Agent Shannon Coats of the FBI.

01:38:16 **20** (The witness was sworn by the clerk.)

01:38:23 **21** MR. SOFER: May I inquire, Your Honor?

01:38:26 **22** THE COURT: Will you tell the ladies and gentlemen

-08:-55:-51 **23** your name, please?

-08:-55:-51 **24** THE WITNESS: My name is Shannon Coats. The

01:38:31 **25** spelling of the last is C-O-A-T-S.

01:38:37 **1** THE COURT: Perhaps sit a tad back so we don't get
01:38:40 **2** feedback.
01:38:41 **3** THE WITNESS: Is this better?
01:38:44 **4** MR. SOFER: I like the James Earl Jones sound,
-08:-55:-51 **5** Judge.
01:38:47 **6** THE COURT: Your present employment or occupation?
-08:-55:-51 **7** THE WITNESS: I'm presently employed by the Federal
-08:-55:-51 **8** Bureau of Investigation as a Special Agent.
-08:-55:-51 **9** THE COURT: Can you confirm for me the indication
-08:-55:-51 **10** you gave a while ago that the term special agent is simply the
01:39:03 **11** conventional name given to agents of the FBI?
01:39:11 **12** THE WITNESS: Yes, it's my understanding Congress
01:39:14 **13** established us for a special or specific powers; that's why
01:39:18 **14** we're called Special Agent.
01:39:20 **15** THE COURT: That's been the traditional
01:39:23 **16** nomenclature and title that you've had?
-08:-55:-51 **17** THE WITNESS: That is correct.
-08:-55:-51 **18** THE COURT: How long have you been employed by the
01:39:29 **19** FBI?
-08:-55:-51 **20** THE WITNESS: About ten years.
-08:-55:-51 **21** THE COURT: Prior to that did you have any law
01:39:33 **22** enforcement experience?
01:39:34 **23** THE WITNESS: I do.
-08:-55:-51 **24** THE COURT: Just briefly, what was that?
-08:-55:-51 **25** THE WITNESS: I was employed for five years with

-08:-55:-51 **1** the police department in Boise, Idaho. Three years as a
01:39:45 **2** patrolman and two years as a detective.

01:39:49 **3** THE COURT: Any other law enforcement experience or
01:39:53 **4** employment before that?

01:39:54 **5** THE WITNESS: No, Your Honor.

01:39:58 **6** THE COURT: Where are you presently stationed?

-08:-55:-51 **7** Where's your place of -- or your duty station as it's called?

01:40:07 **8** THE WITNESS: I'm presently assigned to the Joint

-08:-55:-51 **9** Terrorism Task Force at the Toledo resident agency of the FBI in

-08:-55:-51 **10** Toledo.

01:40:14 **11** THE COURT: How long have you been in the Toledo

01:40:17 **12** office?

-08:-55:-51 **13** THE WITNESS: I've been in the Toledo office about

-08:-55:-51 **14** ten years.

01:40:22 **15** MR. SOFER: You asked all my questions, Judge.

-08:-55:-51 **16** THE COURT: You may cross-examine.

-08:-55:-51 **17** Mr. Sofer, you may proceed.

01:40:33 **18** - - -

01:40:33 **19** SHANNON COATS, DIRECT EXAMINATION

-08:-55:-51 **20** BY MR. SOFER:

-08:-55:-51 **21** Q. Good morning, Agent Coats.

-08:-55:-51 **22** A. Good morning.

01:40:37 **23** Q. I'll see if I can get any of your background the Judge

-08:-55:-51 **24** hasn't asked.

01:40:41 **25** Will you please tell the members of the jury how

-08:-55:-51 **1** old you are?

01:40:44 **2** A. 41 years old.

-08:-55:-51 **3** Q. You tell us basically where it is that you grew up?

01:40:48 **4** A. I grew up in Boise, Idaho.

-08:-55:-51 **5** Q. Are you married?

-08:-55:-51 **6** A. I am.

01:40:52 **7** Q. For how long have you been married?

-08:-55:-51 **8** A. I've been married almost 20 years.

-08:-55:-51 **9** Q. Do you have any children?

-08:-55:-51 **10** A. I do.

-08:-55:-51 **11** Q. You tell us basically what your educational background

01:41:02 **12** is?

-08:-55:-51 **13** A. I have a bachelor's degree in psychology.

01:41:05 **14** Q. And where did you go to college?

01:41:09 **15** A. I went to Boise State University in Boise, Idaho.

01:41:13 **16** Q. Can you tell the members of the jury what you did after

-08:-55:-51 **17** you graduated from college?

-08:-55:-51 **18** A. Immediately after graduating from college I spent about

-08:-55:-51 **19** five years working in the mental health field.

01:41:24 **20** Q. Approximately how long did you work in the mental health

01:41:28 **21** field?

-08:-55:-51 **22** A. A total of about 7 years, but after college about five

-08:-55:-51 **23** years.

01:41:33 **24** Q. Can you tell us basically, without going into too many

01:41:37 **25** details, what you did in the mental health field?

-08:-55:-51 **1** A. Yes. I spent most of the time as a program director for
-08:-55:-51 **2** a private company that provided services to developmentally
-08:-55:-51 **3** disabled kids.

01:41:51 **4** Q. After you worked in the mental health field can you tell
-08:-55:-51 **5** the members of the jury what you did?

01:41:56 **6** A. In January of 1993 I went to work for the police
01:41:59 **7** department in Boise, Idaho.

-08:-55:-51 **8** Q. And I think you said that you started off as a patrol
-08:-55:-51 **9** officer?

01:42:04 **10** A. Yes.

-08:-55:-51 **11** Q. Can you tell the members of the jury basically what you
-08:-55:-51 **12** did in your capacity as patrol officer?

-08:-55:-51 **13** A. Yes. My duties as a patrol officer were to respond to
-08:-55:-51 **14** general calls for service, domestic violence calls, bar fights,
01:42:18 **15** enforce traffic law, conduct some traffic investigation, make
-08:-55:-51 **16** arrests, some collecting of evidence. Things related to that.

01:42:28 **17** Q. How long were you on patrol?

-08:-55:-51 **18** A. Approximately three years.

01:42:32 **19** Q. Did there come a time when you were promoted to another
-08:-55:-51 **20** position?

-08:-55:-51 **21** A. Yes.

-08:-55:-51 **22** Q. I think you said you were a Detective next?

-08:-55:-51 **23** A. Correct. I was a Detective assigned to the Property
-08:-55:-51 **24** Crimes Unit.

-08:-55:-51 **25** Q. How long did you serve as a Detective with the Boise

01:42:45 **1** Police Department?

-08:-55:-51 **2** **A.** Approximately two years.

-08:-55:-51 **3** **Q.** Did there come a time while you were working for the

-08:-55:-51 **4** Boise Police Department that you were hired by the Federal

-08:-55:-51 **5** Bureau of Investigation?

-08:-55:-51 **6** **A.** Yes, there did.

-08:-55:-51 **7** **Q.** Again, you were hired in what capacity?

-08:-55:-51 **8** **A.** I was hired as a Special Agent.

01:42:59 **9** **Q.** Do you remember what day you began your service with the

-08:-55:-51 **10** FBI?

-08:-55:-51 **11** **A.** I do.

01:43:02 **12** **Q.** You tell the members of the jury when that was?

01:43:04 **13** **A.** December 7, 1997.

01:43:06 **14** **Q.** You have been with the FBI ever since?

-08:-55:-51 **15** **A.** Yes, I have.

-08:-55:-51 **16** **Q.** I think you said ten years you've been all together?

01:43:13 **17** **A.** Correct, just over ten years.

01:43:15 **18** **Q.** When you first accepted your position as a Special Agent

01:43:18 **19** in the FBI, where did you go?

-08:-55:-51 **20** **A.** I went to the FBI Academy in Quantico, Virginia.

-08:-55:-51 **21** **Q.** And without too many details, can you give the jury a

01:43:26 **22** basic description of what kind of training you received at the

-08:-55:-51 **23** FBI Academy in Quantico, Virginia?

-08:-55:-51 **24** **A.** I can. The training consisted of some legal

01:43:36 **25** instruction, some instruction in how to conduct investigations,

01:43:42 **1** pursuit driving, using firearms, report writing, utilizing the
-08:-55:-51 **2** various computer systems that the FBI uses, and things related
-08:-55:-51 **3** to those kinds of training.
-08:-55:-51 **4** **Q.** Did you graduate from the FBI Academy?
-08:-55:-51 **5** **A.** I did.
-08:-55:-51 **6** **Q.** How long did the academy training last?
-08:-55:-51 **7** **A.** At the time the academy training was approximately four
-08:-55:-51 **8** months.
-08:-55:-51 **9** **Q.** And after you completed your training, where were you
-08:-55:-51 **10** assigned?
-08:-55:-51 **11** **A.** I was assigned to Toledo, resident agent.
01:44:13 **12** **Q.** Is that here in northern Ohio?
-08:-55:-51 **13** **A.** Yes. Yes, it's within the City of Toledo.
-08:-55:-51 **14** **Q.** Tell us what area that covers in northern Ohio?
-08:-55:-51 **15** **A.** Well, the Cleveland division of the FBI covers the --
-08:-55:-51 **16** basically the northern half of the state of Ohio. And the
-08:-55:-51 **17** Toledo resident agency covers approximately 23 or so counties
-08:-55:-51 **18** nestled in the northwest corner of the state of Ohio.
-08:-55:-51 **19** **Q.** So would it be fair to say the Toledo resident agency is
-08:-55:-51 **20** part of the Cleveland division of the FBI?
-08:-55:-51 **21** **A.** That's correct.
01:44:44 **22** **Q.** Can you tell the members of the jury what your
-08:-55:-51 **23** assignment was when you were first assigned here to the Toledo
-08:-55:-51 **24** resident agency?
-08:-55:-51 **25** **A.** Yes, when I first arrived in Toledo I was assigned a

01:44:54 **1** variety of different matters. I worked some drug
01:44:57 **2** investigations, some bank robbery, some mail fraud, wire fraud,
01:45:03 **3** international parental kidnapping act violations, just to name
01:45:11 **4** some of the major ones.

-08:-55:-51 **5** **Q.** And approximately what year, by the way, was it when you
-08:-55:-51 **6** arrived here?

-08:-55:-51 **7** **A.** I arrived in April of 1998.

01:45:19 **8** **Q.** And with respect to the kinds of cases that you just
-08:-55:-51 **9** described, what were your basic duties as an FBI agent?

-08:-55:-51 **10** **A.** Basic duties were to collect evidence, to interview
01:45:30 **11** witnesses, interview victims, interview subjects, conduct
01:45:36 **12** background investigations sometimes of individuals related to
01:45:40 **13** those, those matters, and make reports on those matters.

-08:-55:-51 **14** **Q.** Did you receive additional training during these initial
-08:-55:-51 **15** years here at the Toledo resident agency?

-08:-55:-51 **16** **A.** I did.

-08:-55:-51 **17** **Q.** Can you give a basic description to members of the jury
-08:-55:-51 **18** what kind of training that was?

-08:-55:-51 **19** **A.** Attended a number of different training sessions on
01:46:02 **20** conducting white collar crime investigations, background
-08:-55:-51 **21** investigations, things such as that.

01:46:11 **22** **Q.** Did there come a time when your assignment changed?

-08:-55:-51 **23** **A.** Yes, it did.

-08:-55:-51 **24** **Q.** Can you tell the members of the jury when that was?

-08:-55:-51 **25** **A.** Yes, it was on September 11, 2001.

-08:-55:-51 **1** Q. How did your assignment change after September 11 of
-08:-55:-51 **2** 2001?

01:46:24 **3** A. I was assigned to the Joint Terrorism Task Force,
01:46:29 **4** sometimes referred to as the JTTF.

01:46:33 **5** Q. Do you know when the JTTF was created here in Toledo?

-08:-55:-51 **6** A. Approximately. It was created approximately two months
01:46:43 **7** prior to September 11, 2001.

-08:-55:-51 **8** Q. Are there other agencies that participate in the Joint
01:46:50 **9** Terrorism Task Force here in Toledo?

-08:-55:-51 **10** A. Yes, there are.

-08:-55:-51 **11** Q. Can you tell us what some of those agencies are?

-08:-55:-51 **12** A. Yes. There are some state, local, and federal agencies
01:46:59 **13** assigned to the Joint Terrorism Task Force. Locally the Lucas
-08:-55:-51 **14** County Sheriff's Office the Toledo Police Department, the Wood
-08:-55:-51 **15** County Sheriff's Office has participated in the past, the Ohio
01:47:14 **16** State Highway Patrol participates, just to name a few of the
01:47:17 **17** members.

-08:-55:-51 **18** Q. Was the DEA part of this task force?

01:47:19 **19** A. Yes, it was.

-08:-55:-51 **20** Q. Was there another FBI agent that you worked with more
01:47:23 **21** than others when you first started your work on the JTTF?

-08:-55:-51 **22** A. Yes, there was.

-08:-55:-51 **23** Q. Can you tell the members of the jury what his or her
-08:-55:-51 **24** name was?

01:47:32 **25** A. Special Agent William Radcliffe. The spelling is

-08:-55:-51 **1** R-A-D-C-L-I-F-F-E.

01:47:41 **2** **Q.** Is Agent Radcliffe still working with the FBI?

-08:-55:-51 **3** **A.** He is not.

-08:-55:-51 **4** **Q.** You tell the members of the jury why that is?

-08:-55:-51 **5** **A.** Yes, he retired.

-08:-55:-51 **6** **Q.** Now, as part of your work on the JTTF did you actually
01:47:56 **7** participate in other training?

01:47:58 **8** **A.** Yes, I did.

-08:-55:-51 **9** **Q.** Again, can you give us, without telling the details, the
01:48:03 **10** basic description of what that training was?

-08:-55:-51 **11** **A.** Yes. I attended a number of different training sessions
-08:-55:-51 **12** on conducting counter-terrorism investigations.

01:48:12 **13** **Q.** Can you tell the members of the jury what the primary
01:48:15 **14** function of the JTTF here in Toledo?

-08:-55:-51 **15** **A.** Yes, the primary function is to develop intelligence or
-08:-55:-51 **16** to develop information sufficient to prevent another terrorist
01:48:30 **17** attack.

-08:-55:-51 **18** **Q.** Can you give the jury a basic description of what your
01:48:33 **19** duties were as a MIP of the J?

01:48:36 **20** **A.** Yes, some of my basic duties include when leads would
-08:-55:-51 **21** come into the Toledo resident agency of a terrorism or a
-08:-55:-51 **22** counter-terrorism nature, to pursue those leads, conduct
01:48:49 **23** investigations related to those leads, interview witnesses,
01:48:53 **24** sometimes interview subjects, and to write reports on the
-08:-55:-51 **25** findings of those.

01:48:59 **1** **Q.** Can you tell the members of the jury basically, if you
-08:-55:-51 **2** know, the general priorities of the FBI in the area of
01:49:07 **3** counter-terrorism?

-08:-55:-51 **4** **A.** Yes. The priorities are as follows: First of all, to
-08:-55:-51 **5** prevent other terrorist attacks, the second priority is to
01:49:17 **6** disrupt -- that is, if the FBI is made aware of plans to conduct
-08:-55:-51 **7** a terrorist or commit a terrorist act, to disrupt that quad.
-08:-55:-51 **8** And the third priority is to prosecute persons found to be
-08:-55:-51 **9** involved in criminal violations of counter-terrorism statutes.

01:49:36 **10** **Q.** And I think you said that one of the missions of the
01:49:41 **11** JTTF is also to develop intelligence? Is there another word for
-08:-55:-51 **12** intelligence?

-08:-55:-51 **13** **A.** Yes, information.

01:49:50 **14** **Q.** Can you describe for the members of the jury what a
-08:-55:-51 **15** human source is?

-08:-55:-51 **16** **A.** I can. A human source is someone that the FBI or law
-08:-55:-51 **17** enforcement agency utilizes to collect information, to be given
01:50:05 **18** in some cases specific tasks to go out and acquire specific sets
-08:-55:-51 **19** of information.

-08:-55:-51 **20** **Q.** What are the primary reasons for using a human source,
-08:-55:-51 **21** if you know?

-08:-55:-51 **22** **A.** The primary reasons are, first of all, to make sure that
01:50:21 **23** that source is kept safe, that his or her security is
01:50:25 **24** maintained, and then, second, to verify the information that
-08:-55:-51 **25** that individual is bringing to you, and to collect -- utilize

-08:-55:-51 **1** that person to collect information that might aid the FBI in
01:50:40 **2** preventing a terrorist attack.

01:50:45 **3** **Q.** You tell the jury basically and in substance how it is
01:50:48 **4** that you would use a human source in connection with a
-08:-55:-51 **5** counter-terrorism act?

01:50:52 **6** **A.** Yes. In using a human source, you may give that human
-08:-55:-51 **7** source some specific task to go to certain places, to talk to
-08:-55:-51 **8** certain people in an attempt to collect specific information
-08:-55:-51 **9** about either organizations, entities, other people who may be
-08:-55:-51 **10** involved in either planning a terrorist act or in supporting
-08:-55:-51 **11** those who plan terrorist acts.

-08:-55:-51 **12** **Q.** Can you tell the members of the jury, basically without
01:51:25 **13** revealing any specifics that would compromise FBI operations,
-08:-55:-51 **14** how it is that you might go about finding a human source to work
01:51:32 **15** with the FBI?

-08:-55:-51 **16** **A.** Yes. There are several primary ways in which the FBI
01:51:40 **17** obtains human sources. One of them is someone may walk in off
-08:-55:-51 **18** the street and indicate that they have specific access to an
01:51:48 **19** organization or a set of people that they believe would be
-08:-55:-51 **20** useful to the FBI to know about. A second would be sometimes
-08:-55:-51 **21** the FBI or another law enforcement agency also have someone
01:52:02 **22** who's been arrested and they have some motivation to work off
-08:-55:-51 **23** that charge, as it were, or to gain some consideration in their
01:52:11 **24** sentencing. An then finally, someone -- we may become aware of
-08:-55:-51 **25** someone based on virtue of their position within the

01:52:22 **1** organization or social setting that we believe would be valuable

-08:-55:-51 **2** to the FBI , and we may actually make an approach of that

-08:-55:-51 **3** individual to sit down and talk with them and assess their

-08:-55:-51 **4** ability to gather information and their willingness to do so.

01:52:42 **5** **Q.** I want to direct your attention to the fall of 2001.

-08:-55:-51 **6** Did there come a time in the fall of 2001 when you heard about a

-08:-55:-51 **7** person named Darren Griffin?

-08:-55:-51 **8** **A.** Yes, I did.

-08:-55:-51 **9** **Q.** Do you recall where it was that you heard about Darren

01:52:53 **10** Griffin?

01:52:53 **11** **A.** Yes, I heard about Darren Griffin from -- there were a

-08:-55:-51 **12** couple of personnel from the Drug Enforcement Administration who

-08:-55:-51 **13** were participating members of the Joint Terrorism Task Force and

-08:-55:-51 **14** they indicated that there was an individual that they had been

01:53:09 **15** utilizing as a cooperating witness and that they believed, based

-08:-55:-51 **16** upon Mr. Griffin's background, specifically in the Special

-08:-55:-51 **17** Forces and his understanding of Middle Eastern culture and

01:53:21 **18** Islamic culture, that he may be somebody that we might be able

-08:-55:-51 **19** to utilize in the gathering of information.

01:53:31 **20** **MR. BOSS:** Mr. Coats, could you use the microphone?

-08:-55:-51 **21** **THE COURT:** Maybe a little closer. Ladies and

01:53:37 **22** gentlemen, are you able to hear?

01:53:39 **23** **THE JUROR:** Yes.

01:53:42 **24** **MR. SOFER:** Try to speak a little louder.

-08:-55:-51 **25** **BY MR. SOFER:**

-08:-55:-51 **1** Q. You described the various ways in which the FBI
-08:-55:-51 **2** identifies people who could be human sources. What was -- was
-08:-55:-51 **3** Mr. Griffin in trouble at that time?
01:53:56 **4** A. He was not.
01:53:57 **5** Q. Was he a walk-in?
01:53:59 **6** A. He was not.
01:54:00 **7** Q. So he came in this other category then; is that correct?
01:54:04 **8** A. Yes. We were made aware of him by another law
-08:-55:-51 **9** enforcement agency.
-08:-55:-51 **10** Q. Did there come a time when you and other FBI agents met
-08:-55:-51 **11** with Darren Griffin in the fall of 2001?
01:54:15 **12** A. Yes, there was.
01:54:16 **13** Q. And after the initial meeting, did there later come a
-08:-55:-51 **14** time when Darren Griffin stopped working with the Drug
01:54:23 **15** Enforcement Administration and started working exclusively for
-08:-55:-51 **16** the FBI?
-08:-55:-51 **17** A. Yes, he did.
-08:-55:-51 **18** Q. Can you tell the members of the jury, basically in
01:54:29 **19** summary, how that happened?
01:54:30 **20** A. Yes. Over the course of an approximately eight- or
-08:-55:-51 **21** nine-month time period, Mr. Griffin made a transition from
01:54:40 **22** working with the Drug Enforcement Administration into a role
-08:-55:-51 **23** that we began discussing with him, that of an Islamic extremist.
-08:-55:-51 **24** Due to the nature of his transition it was necessary that it
-08:-55:-51 **25** take place over a fairly substantial time period. He couldn't

-08:-55:-51 **1** simply go from one day being in an environment of drugs and
-08:-55:-51 **2** narcotics and purchasing drugs and narcotics to the next day
01:55:07 **3** going to the role of an Islamic extremist.

01:55:12 **4** **Q.** Did Darren Griffin have to fill out some lengthy
-08:-55:-51 **5** questionnaire in order to work for the FBI?

-08:-55:-51 **6** **A.** He did not.

-08:-55:-51 **7** **Q.** Did there come a time when he entered into an agreement
01:55:22 **8** to work for the FBI?

01:55:23 **9** **A.** Yes, he did.

01:55:27 **10** **Q.** By the way, is there another term for someone who agrees
-08:-55:-51 **11** to work for the FBI as a human source?

01:55:32 **12** **A.** Yes, they're often referred to as a "cooperating
-08:-55:-51 **13** witness".

01:55:36 **14** **Q.** Is that sometimes referred to as a "CW"?

-08:-55:-51 **15** **A.** Correct.

01:55:41 **16** **Q.** Is there another term used to describe the people who
01:55:49 **17** have primary contact with the CW or cooperating witness?

-08:-55:-51 **18** **A.** Yes, they're often referred to as the contact agent,
01:55:56 **19** sometimes as the handler.

-08:-55:-51 **20** **Q.** Were you one of the contact agents for Darren Griffin
01:56:02 **21** during the course of the investigation that led to the instant
-08:-55:-51 **22** case?

-08:-55:-51 **23** **A.** Yes, I was.

-08:-55:-51 **24** **Q.** Was there another contact agent?

-08:-55:-51 **25** **A.** Yes, there was.

- 08:-55:-51 **1** Q. Can you tell the members of the jury who that was?
- 08:-55:-51 **2** A. Yes, that was Special Agent William Radcliffe.
- 01:56:15 **3** Q. Who preceded who?
- 01:56:17 **4** A. Mr. Radcliff preceded myself.
- 01:56:22 **5** Q. Did you work with Agent Radcliffe during the time or
- 08:-55:-51 **6** much of the time that he was the primary contact agent for
- 01:56:29 **7** Darren Griffin?
- 08:-55:-51 **8** A. Yes, I did.
- 01:56:31 **9** Q. Do you remember when it was that you became the primary
- 01:56:36 **10** contact agent for Darren Griffin?
- 08:-55:-51 **11** A. Yes, I do.
- 08:-55:-51 **12** Q. Can you tell the members of the jury when that was?
- 08:-55:-51 **13** A. Approximately April 1, 2005.
- 08:-55:-51 **14** Q. Why did that take place?
- 01:56:45 **15** A. As a result of the retirement of Special Agent
- 01:56:50 **16** Radcliffe.
- 01:56:50 **17** Q. By the way, have you worked extensively with a younger
- 01:56:54 **18** agent during the course of this case?
- 08:-55:-51 **19** A. Yes, I have.
- 08:-55:-51 **20** Q. Who is that individual?
- 08:-55:-51 **21** A. That's Special Agent Steven Gubanich.
- 01:57:02 **22** Q. You spell that for us?
- 08:-55:-51 **23** A. The spelling of the last name is G-U-B-A-N-I -C-H.
- 01:57:09 **24** Q. G-U-B-A-N-I-C-H?
- 01:57:14 **25** A. Correct.

-08:-55:-51 **1** Q. Was Special Agent Steve Gubanich ever the primary

-08:-55:-51 **2** handler for Darren Griffin?

-08:-55:-51 **3** A. He was not.

01:57:21 **4** Q. Do you recall what Darren Griffin was told to do by the

-08:-55:-51 **5** FBI when he started working as a cooperating witness basically?

-08:-55:-51 **6** A. Yes. When he first began working as a cooperating

01:57:32 **7** witness he was told about this, the plan to develop him as an

-08:-55:-51 **8** Islamic extremist, and was told to go to various social

01:57:42 **9** gatherings, to attend Mosque or a Mosque, and to work his way

-08:-55:-51 **10** into that social environment.

01:57:51 **11** Q. And do you recall if he was told anything whatsoever by

-08:-55:-51 **12** the FBI initially about Mohammad Amawi, Marwan El-Hindi or

01:57:59 **13** Wassim Mazloun, the three defendants in this case?

-08:-55:-51 **14** A. He was not.

01:58:04 **15** Q. Do you recall whether shortly after working for --

01:58:09 **16** beginning his work for the FBI, he was asked to interact with

01:58:16 **17** particular individuals who were people of interest?

01:58:20 **18** A. Yes, he was.

01:58:21 **19** Q. And were any of those people Mohammad Amawi, Marwan

01:58:25 **20** El-Hindi or Wassim Mazloun?

01:58:26 **21** A. They were not.

01:58:28 **22** Q. Can you give the jury a basic description of the steps

-08:-55:-51 **23** that had to be taken in order to get Darren Griffin into a

-08:-55:-51 **24** position to perform his work for the FBI in gathering

01:58:39 **25** information?

-08:-55:-51 **1** A. Yes. As I indicated a few moments ago, this was a
01:58:46 **2** process that took a number of months for him to move out of his
01:58:51 **3** prior existence and into his role as an Islamic extremist. It
01:58:57 **4** meant that he was going to have to change where it was he lived;
01:59:00 **5** he was going to have to live in or around downtown Toledo, Ohio;
-08:-55:-51 **6** he was going to have to make himself available to make
01:59:09 **7** consensual recordings with individuals who the FBI deemed that
-08:-55:-51 **8** he needed to make recordings with; he was going to have to
01:59:16 **9** change the way in which he dressed; he was going to have to
-08:-55:-51 **10** change the way in which he went out to restaurants. He was
-08:-55:-51 **11** going to have to change his social environment, his social
01:59:27 **12** circles. He was going to have to be available for gatherings
01:59:33 **13** within the Islamic or Muslim community locally. He was going
-08:-55:-51 **14** to have to attend the Mosque at least on a weekly basis; he was
01:59:41 **15** going to have to attend Arabic language classes. Just to name a
01:59:45 **16** few of the kinds of things that he was going to have to do in
-08:-55:-51 **17** order to adopt that persona.

-08:-55:-51 **18** Q. Did the FBI offer to pay Darren Griffin for this work?

01:59:53 **19** A. We did.

01:59:54 **20** Q. Can you tell the members of the jury why?

01:59:56 **21** A. Yes. Based on the -- on all of what I just described,
-08:-55:-51 **22** it was going to take a substantial amount of his time, so much
-08:-55:-51 **23** so that he was not going to be able to hold down a regular
-08:-55:-51 **24** full-time job.

02:00:09 **25** Q. How much was Darren Griffin paid by the FBI?

- 08:-55:-51 **1** A. Initially he was paid 4,000 dollars a month.
- 08:-55:-51 **2** Q. And how was he paid?
- 02:00:17 **3** A. He was paid on a monthly basis in cash.
- 02:00:22 **4** Q. Can you tell the members of the jury why it was Darren
- 08:-55:-51 **5** Griffin was paid in cash?
- 08:-55:-51 **6** A. It's the bureau's policy, we pay informants in cash.
- 08:-55:-51 **7** Q. Is there a purpose for that?
- 02:00:34 **8** A. So it limits the paper trail that identifies that
- 02:00:37 **9** individual as working with or connected to the FBI.
- 02:00:40 **10** Q. As far as you know is that how every cooperating
- 02:00:44 **11** witness, CW or human source, is paid, at least during the time
- 02:00:48 **12** that you've been working these kinds of cases?
- 08:-55:-51 **13** A. Yes.
- 02:00:51 **14** Q. Did there come a time when Darren Griffin was given a
- 08:-55:-51 **15** raise?
- 02:00:55 **16** A. Yes, there did.
- 08:-55:-51 **17** Q. And do you recall when that was?
- 08:-55:-51 **18** A. Yes. That was in August -- approximately August of
- 02:01:03 **19** 2004.
- 02:01:04 **20** Q. Now, in August of 2004, Mr. Griffin was working on this
- 02:01:13 **21** matter and others; is that fair to say?
- 02:01:15 **22** A. That is correct.
- 08:-55:-51 **23** Q. And you give us a very basic approximation of what
- 02:01:20 **24** fraction of his total reporting centered on any of the three
- 02:01:26 **25** defendants in this case when he was given his raise?

- 02:01:30 **1** A. I would approximate maybe 30 to 40 percent of his time.
- 08:-55:-51 **2** Q. So the other 60 or 70 percent related to other
- 08:-55:-51 **3** individuals or other investigations that the FBI was conducting?
- 08:-55:-51 **4** A. A variety of other investigations, yes.
- 02:01:45 **5** Q. Did there come a time when Darren Griffin's salary was
- 02:01:48 **6** reduced?
- 08:-55:-51 **7** A. Yes, there did.
- 08:-55:-51 **8** Q. Can you tell the members of the jury when that was, if
- 08:-55:-51 **9** you recall?
- 02:01:53 **10** A. Yes. Between August of 2005 and December of 2005.
- 02:01:59 **11** Q. Can you tell us why that occurred?
- 08:-55:-51 **12** A. Yes, I can. In July of 2005 or approximately July of
- 08:-55:-51 **13** 2005, we had requested that Mr. Griffin obtain his passport in
- 02:02:14 **14** anticipation of him traveling overseas and it was discovered at
- 08:-55:-51 **15** that time that due to some arrearages in his child support that
- 08:-55:-51 **16** it was going to be necessary to pay down that child support
- 08:-55:-51 **17** amount so that he could obtain a passport, and so the FBI paid
- 02:02:32 **18** Mr. Griffin approximately 5,220 or so dollars to bring that
- 08:-55:-51 **19** arrearage down such that he could obtain a passport.
- 08:-55:-51 **20** Q. Then what happened to his salary? .
- 08:-55:-51 **21** A. His salary was reduced by \$1,000 a month for five months
- 08:-55:-51 **22** to repay that cost.
- 08:-55:-51 **23** Q. During the course of the investigation did the FBI pay
- 08:-55:-51 **24** other expenses incurred by Darren Griffin?
- 08:-55:-51 **25** A. Yes, we did.

-08:-55:-51 **1** Q. And I want to refer specifically to one of these and
-08:-55:-51 **2** that relates to the Thuraya cell phone bill which was a whole
02:03:05 **3** lot of money, wasn't it?
-08:-55:-51 **4** A. Yes, it was.
02:03:07 **5** Q. Did Darren Griffin receive money in order to pay for
-08:-55:-51 **6** this expense?
-08:-55:-51 **7** A. Yes, he did.
-08:-55:-51 **8** Q. Can you tell the members of the jury why that is?
-08:-55:-51 **9** A. Yes, the Thuraya satellite phone was in Mr. Griffin's
-08:-55:-51 **10** name. And on a monthly basis he would get -- a bill for that
02:03:23 **11** Thuraya cell phone was sent to him. He would present that bill
-08:-55:-51 **12** to me. I would turn that bill into the administrative
02:03:32 **13** department of the FBI along with paperwork requesting payment
-08:-55:-51 **14** for that amount.
-08:-55:-51 **15** Q. Can you tell us why the phone itself was important at
02:03:39 **16** that time, if it was at all?
-08:-55:-51 **17** A. Yes. We wanted to purchase a satellite phone for Mr.
-08:-55:-51 **18** Griffin to utilize overseas.
-08:-55:-51 **19** Q. Did there come a time when he gave that phone to someone
-08:-55:-51 **20** else, to your knowledge?
-08:-55:-51 **21** A. Yes, he did.
-08:-55:-51 **22** Q. Do you know who that person was?
02:03:54 **23** A. Yes, I do.
-08:-55:-51 **24** Q. Who was it?
-08:-55:-51 **25** A. The phone was given to the defendant, Mohammad Amawi.

02:03:58 **1** **Q.** Was it important to the FBI to know who defendant
02:04:01 **2** Mohammad Amawi was calling?
-08:-55:-51 **3** **A.** Yes, it was.
-08:-55:-51 **4** **Q.** What is your current understanding of the situation
02:04:09 **5** related to the Thuraya cell phone bill?
-08:-55:-51 **6** **A.** My current understanding is Mr. Griffin owes
02:04:14 **7** approximately 22-or-so thousand dollars to the Thuraya satellite
02:04:20 **8** phone.
-08:-55:-51 **9** **Q.** Have you discussed this with Mr. Griffin?
-08:-55:-51 **10** **A.** Yes, I have.
-08:-55:-51 **11** **Q.** Was Darren Griffin ever given what amounts to a bonus or
02:04:26 **12** an extra payment during the course of this case?
-08:-55:-51 **13** **A.** Yes, he was.
-08:-55:-51 **14** **Q.** Can you tell the members of the jury when that was and
-08:-55:-51 **15** why?
02:04:31 **16** **A.** Yes. On two occasions Mr. Griffin received a bonus of
02:04:36 **17** -- I believe it was 5,500 dollars. He received that bonus
-08:-55:-51 **18** after having made each of the two overseas trips that we
-08:-55:-51 **19** requested Mr. Griffin make, and the purpose for that bonus was
-08:-55:-51 **20** he was going to be in an environment that was potentially
02:04:53 **21** dangerous, and he couldn't simply pick up the phone and make a
-08:-55:-51 **22** phone call to have someone come and rescue him if he got into
02:05:01 **23** trouble or needed...
02:05:04 **24** **Q.** Were those bonuses related to the prosecution or arrest
-08:-55:-51 **25** of anyone?

02:05:08 **1** A. No, they were not.

-08:-55:-51 **2** Q. Did Darren Griffin receive any medical, dental or other

-08:-55:-51 **3** type of expenses from the FBI?

-08:-55:-51 **4** A. He did not.

-08:-55:-51 **5** Q. Was he issued a W2 form by the FBI as far as you're

-08:-55:-51 **6** aware?

-08:-55:-51 **7** A. He was not.

02:05:20 **8** Q. Was the payment of monies by the FBI to Darren Griffin

02:05:24 **9** connected to a particular agreement?

02:05:27 **10** A. Yes, they were.

-08:-55:-51 **11** Q. And was that one of the agreements known as a -- what

-08:-55:-51 **12** was that agreement called?

-08:-55:-51 **13** A. The agreements are referred to as a personal services

02:05:38 **14** agreement, or sometimes a PSA.

02:05:42 **15** Q. I'm going to put on to the board here what's

02:05:50 **16** Government's Exhibit 204-A in evidence. And I am on the third

-08:-55:-51 **17** page of that document?

02:06:05 **18** MR. HARTMAN: Which exhibit?

02:06:09 **19** MR. SOFER: 204-A. Basically this document is the

02:06:13 **20** same. There were a number of these agreements executed during

-08:-55:-51 **21** the course of Mr. Griffin's employment or work with the FBI.

-08:-55:-51 **22** A. Yes.

02:06:20 **23** Q. Basically they're the same except some minor

-08:-55:-51 **24** differences, specifically about the amount of money he's being

-08:-55:-51 **25** paid?

02:06:27 **1** A. That is correct.

02:06:29 **2** Q. There's been quite a bit of discussion about this

02:06:32 **3** Paragraph Number 6 on here. Can you see that on the screen?

02:06:38 **4** A. Yes.

02:06:39 **5** Q. Can you tell the members of the jury what your

02:06:42 **6** understanding is of Paragraph Number 6?

02:06:45 **7** A. Yes. It's my understanding that this is notifying, in

-08:-55:-51 **8** this case Mr. Griffin, that he's not to initiate any plans to

-08:-55:-51 **9** commit a criminal act without the knowledge of the FBI and the

-08:-55:-51 **10** participation of the FBI. It also admonishes him that he's not

-08:-55:-51 **11** to participate in an act of violence and that if he becomes

-08:-55:-51 **12** aware of any plans to commit an act of violence that he needs to

02:07:15 **13** let the FBI know about that as soon as possible.

02:07:19 **14** Q. You've listened to most or all of the consensual

02:07:23 **15** recordings in this case?

-08:-55:-51 **16** A. That is correct.

02:07:25 **17** Q. And is it your understanding -- well, let me ask it this

-08:-55:-51 **18** way.

02:07:32 **19** Did Darren Griffin violate Paragraph Number 6 as

-08:-55:-51 **20** far as your understanding?

02:07:38 **21** MR. HARTMAN: Objection.

-08:-55:-51 **22** THE COURT: Sustained.

02:07:41 **23** BY MR. SOFER:

02:07:41 **24** Q. Can you tell us what the purpose, as far as you know, is

-08:-55:-51 **25** of Paragraph Number 6?

-08:-55:-51 **1** A. Yes. The purpose is to make sure that the cooperating
-08:-55:-51 **2** witness, in this case Mr. Griffin, understands that he cannot
02:07:57 **3** participate in criminal acts without the knowledge of the FBI ,
-08:-55:-51 **4** and he can't participate in any acts of violence, and if he
-08:-55:-51 **5** becomes aware of the planning of acts of violence, he needs to
02:08:09 **6** make the FBI aware of that.

-08:-55:-51 **7** Q. With respect to his interaction with the defendants in
-08:-55:-51 **8** this case, did Darren Griffin participate in any criminal acts
02:08:18 **9** after your review of the recordings?

02:08:20 **10** MR. HARTMAN: Objection.

-08:-55:-51 **11** THE COURT: Let's finish the question. I would
-08:-55:-51 **12** express concern it might call for a legal conclusion.

02:08:32 **13** BY MR. SOFER:

-08:-55:-51 **14** Q. After you reviewed the recordings in this case, were any
-08:-55:-51 **15** of the acts -- forget whether they're criminal or not -- that
-08:-55:-51 **16** Darren Griffin either participated in or recommended to these
-08:-55:-51 **17** defendants that are related to the charges in this case done
-08:-55:-51 **18** without the knowledge of the FBI?

-08:-55:-51 **19** A. They were not done without the knowledge of the FBI .

02:08:52 **20** Q. Okay. Now, was Darren Griffin told that he was
-08:-55:-51 **21** responsible for paying taxes on the money the FBI was paying
-08:-55:-51 **22** him?

-08:-55:-51 **23** A. Yes, he was.

-08:-55:-51 **24** Q. Did there come a time when you learned Darren Griffin
-08:-55:-51 **25** was not paying the taxes on this money?

-08:-55:-51 **1** A. Yes, there did.

-08:-55:-51 **2** Q. Can you tell the members of the jury what you did as a
-08:-55:-51 **3** result of learning that?

-08:-55:-51 **4** A. As a result of learning --

-08:-55:-51 **5** THE COURT: If I may ask, can we have a time frame

02:09:22 **6** as to when, according to his present recollection, he first

-08:-55:-51 **7** became aware of that situation?

-08:-55:-51 **8** MR. SOFER: I was going to get to that, Judge, but

-08:-55:-51 **9** we can ask it now.

02:09:33 **10** BY MR. SOFER:

-08:-55:-51 **11** Q. Approximately when was it that you learned this?

-08:-55:-51 **12** A. Approximately March of 2006.

02:09:40 **13** Q. You tell us what you did as a result of that, if

-08:-55:-51 **14** anything?

-08:-55:-51 **15** MR. HARTMAN: Objection. Can we approach?

-08:-55:-51 **16** THE COURT: Sure.

02:09:45 **17** (Whereupon the following discussion was had at the

02:12:53 **18** bench outside the hearing of the jury:)

02:12:53 **19** THE COURT: What do you expect the answer to be?

-08:-55:-51 **20** MR. SOFER: I was just going to say, did you talk

-08:-55:-51 **21** to him about it and eventually learn that this was more complex

-08:-55:-51 **22** than it initially appeared?

-08:-55:-51 **23** THE COURT: Because?

-08:-55:-51 **24** MR. SOFER: Because there's no W2. He is a

-08:-55:-51 **25** consultant essentially. Essentially you need an accountant to

-08:-55:-51 **1** break all this down. He can't tell anybody the truth about

-08:-55:-51 **2** what he's doing. It's not a question of just walking in --

-08:-55:-51 **3** THE COURT: It appears to me it's going to start

-08:-55:-51 **4** getting into some hearsay.

-08:-55:-51 **5** MR. SOFER: What's the objection?

-08:-55:-51 **6** MR. HARTMAN: First of all the objection is, number

-08:-55:-51 **7** one, it's post indictment. It's going to lead us into getting

-08:-55:-51 **8** into fees on taxes. We're going to bring in an EZ form that

-08:-55:-51 **9** says other income. Did you read that form? It's going to lead

-08:-55:-51 **10** us into all sorts of areas like that. Second of all, I don't

-08:-55:-51 **11** think it matters. You can't say -- the government can't say, I

-08:-55:-51 **12** don't believe this agent can say that it gets more complicated

-08:-55:-51 **13** because you have to ask an accountant to break it down.

-08:-55:-51 **14** MR. SOFER: I'm willing to forego this, especially

-08:-55:-51 **15** the whole.

-08:-55:-51 **16** THE COURT: I think it would. Quite candidly, I

-08:-55:-51 **17** don't recall how this came to my attention in the past week or

-08:-55:-51 **18** so, but apparently the bureau never provides a W2, and in all

-08:-55:-51 **19** candor, I think in terms of Griffin's credibility, not paying

-08:-55:-51 **20** taxes is an important issue, and it might get muddy into gee,

-08:-55:-51 **21** the bureau, he didn't get a W2, that's fine; well, that's the

-08:-55:-51 **22** way the bureau works. I don't think it would be fair or

-08:-55:-51 **23** appropriate for the defense to point that out. The issue is he

-08:-55:-51 **24** didn't pay the taxes.

-08:-55:-51 **25** MR. SOFER: I'll ask where did he learn that from,

-08:-55:-51 **1** how's that?

-08:-55:-51 **2** THE COURT: And the answer is.

-08:-55:-51 **3** MR. SOFER: Darren Griffin.

-08:-55:-51 **4** THE COURT: That's fine.

-08:-55:-51 **5** MR. HERDMAN: He might be able to ask a question

-08:-55:-51 **6** such as did the FBI issue a W2?

-08:-55:-51 **7** MR. SOFER: I did ask that.

-08:-55:-51 **8** THE COURT: It's in the record. It did not.

-08:-55:-51 **9** I want to stay away from all issues of policy.

-08:-55:-51 **10** MR. HARTMAN: As long as we're here, I'm wondering

-08:-55:-51 **11** if we can ask the witness to stop saying another terrorist

-08:-55:-51 **12** attack. Because he's talking.

-08:-55:-51 **13** THE COURT: He's moved on.

-08:-55:-51 **14** (End of sidebar).

02:12:57 **15** (Whereupon the following discussion was had at the

02:15:07 **16** bench outside the hearing of the jury:)

02:15:07 **17** MR. SOFER: Can you look?

-08:-55:-51 **18** THE COURT: That's exactly what I was looking for.

-08:-55:-51 **19** MR. SOFER: It's important to the government

-08:-55:-51 **20** that -- I believe I asked that question. Mr. Herdman says I

-08:-55:-51 **21** did not ask that question. I just want to make sure I did.

-08:-55:-51 **22** MR. HERDMAN: You asked a question. My memory is

-08:-55:-51 **23** you asked is a question whether there was a record of it.

-08:-55:-51 **24** THE COURT: I have a note that says, quote, didn't

-08:-55:-51 **25** get a W2.

02:15:10 **1** (End of sidebar discussion.)

02:15:10 **2** THE COURT: Thanks for your patience. Quite

02:15:13 **3** candidly, I can't recall the last question, whether there was a

-08:-55:-51 **4** question. I trust that the jurors can't either. But

02:15:22 **5** disregard the question, and you may proceed.

02:15:24 **6** MR. SOFER: I'll withdraw the question and rephrase

-08:-55:-51 **7** it, Your Honor.

02:15:27 **8** BY MR. SOFER:

02:15:28 **9** **Q.** Agent Coats, from where did you learn that Darren

-08:-55:-51 **10** Griffin had not yet paid his taxes on the money he was paid by

-08:-55:-51 **11** the FBI?

-08:-55:-51 **12** **A.** I learned it from Mr. Griffin.

02:15:38 **13** **Q.** Was Darren Griffin ever given a drug test once he

-08:-55:-51 **14** started working for the FBI?

-08:-55:-51 **15** **A.** He was not.

-08:-55:-51 **16** **Q.** Can you tell the members of the jury why that is?

-08:-55:-51 **17** **A.** As a matter of general policy we don't drug test

02:15:50 **18** cooperating witnesses.

-08:-55:-51 **19** **Q.** Did you talk to Darren Griffin about keeping his work

-08:-55:-51 **20** for the FBI a secret?

-08:-55:-51 **21** **A.** I did, although I would add that based on Mr. Griffin's

02:16:00 **22** background, he was acutely aware of his need to keep what he was

02:16:05 **23** doing a secret. We did have some discussions regarding how to

-08:-55:-51 **24** keep that a secret.

-08:-55:-51 **25** **Q.** Again, I'm going to ask you to try to keep your voice

-08:-55:-51 **1** up?

-08:-55:-51 **2** A. Sorry.

02:16:15 **3** Q. Can you give us basically what the substance of those

02:16:20 **4** instructions were about keeping his work secret and what kind of

02:16:23 **5** things you encouraged him to do?

-08:-55:-51 **6** A. For example, when we would talk to each other on the

02:16:30 **7** telephone, neither of us would use the other person's name. He

-08:-55:-51 **8** would refer to me as boss, I would refer to him as a guy or

-08:-55:-51 **9** something like that. In addition, we would often change the

-08:-55:-51 **10** location of where it was we met in an effort to prevent people

-08:-55:-51 **11** who might observe us from drawing a conclusion that we were --

02:16:49 **12** either of us were connected in some way to the FBI.

-08:-55:-51 **13** Q. Were there times when you met with Darren Griffin

02:16:54 **14** outside the Toledo area?

-08:-55:-51 **15** A. Yes, there were.

02:16:57 **16** Q. Now, was Darren Griffin told what the money he was being

-08:-55:-51 **17** paid by the FBI was for?

02:17:02 **18** A. Yes.

02:17:03 **19** Q. Can you tell the members of the jury basically what that

02:17:06 **20** was?

-08:-55:-51 **21** A. Yes, he was told that monies he was paid on a monthly

02:17:11 **22** basis were for living expenses so he could support himself and

-08:-55:-51 **23** his family.

-08:-55:-51 **24** Q. Was the money paid to Darren Griffin ever linked in any

-08:-55:-51 **25** way to the FBI's arresting or prosecuting Marwan El-Hindi,

02:17:23 **1** Mohammad Amawi or Wassim Mazloun?

-08:-55:-51 **2** A. It was not.

-08:-55:-51 **3** Q. Was it ever linked to the arrest or prosecution of

02:17:29 **4** anyone?

-08:-55:-51 **5** A. It was not.

02:17:30 **6** Q. Was he ever promised a reward of any kind?

-08:-55:-51 **7** A. He was not.

02:17:36 **8** Q. I think you answered this question little bit, but was

02:17:39 **9** Darren Griffin collecting information related to other

02:17:42 **10** investigations and other targets of FBI investigations other

-08:-55:-51 **11** than the defendants in this case?

-08:-55:-51 **12** A. Yes, he was.

-08:-55:-51 **13** Q. And did that work continue up until the work stopped in

-08:-55:-51 **14** this case and this investigation came to a close?

-08:-55:-51 **15** A. Yes, it did.

-08:-55:-51 **16** Q. Were some of the investigations still active at the time

02:18:04 **17** that this case terminated?

02:18:07 **18** A. They were.

02:18:11 **19** Q. Was Darren Griffin able to continue his work on those

02:18:14 **20** other investigations after this investigation was terminated?

02:18:18 **21** A. He was not.

-08:-55:-51 **22** Q. Can you tell the members of the jury why that is?

-08:-55:-51 **23** A. Yes. Because in February of 2006 it became publicly

-08:-55:-51 **24** known that Mr. Griffin had served as a cooperating witness for

-08:-55:-51 **25** the FBI.

-08:-55:-51 **1** Q. Now, can you give the jury an idea, without referring to
-08:-55:-51 **2** specific details, about how many other people, other than these
-08:-55:-51 **3** three defendants, that Darren Griffin was tasked with collecting
02:18:44 **4** information about?

-08:-55:-51 **5** MR. HARTMAN: Judge, I'm going to object on
02:18:47 **6** relevance.

-08:-55:-51 **7** THE COURT: I tend to agree.

-08:-55:-51 **8** MR. SOFER: Just a quantity, Judge, not the actual.

-08:-55:-51 **9** MR. HARTMAN: Still, I mean...

-08:-55:-51 **10** THE COURT: That's okay, in terms of the numbers.
02:19:00 **11** You may answer.

02:19:02 **12** A. At least 20 or so.

02:19:06 **13** BY MR. SOFER:

02:19:06 **14** Q. Did Darren Griffin collect information about these
02:19:08 **15** people while also working on collecting information in this
-08:-55:-51 **16** case, to your knowledge?

02:19:11 **17** A. Yes, he did.

-08:-55:-51 **18** Q. Were there people that Darren Griffin collected
02:19:14 **19** information on who have not been arrested?

-08:-55:-51 **20** A. Yes.

02:19:18 **21** Q. And were there even people associated with this
-08:-55:-51 **22** particular investigation who Darren Griffin collected
-08:-55:-51 **23** information on who were not arrested?

02:19:25 **24** A. Yes.

-08:-55:-51 **25** MR. HARTMAN: Objection, Judge. Can we approach,

02:19:28 **1** please?

-08:-55:-51 **2** THE COURT: I'm going to agree with that. I'm

-08:-55:-51 **3** going to sustain the objection. Come on up and we can talk.

-08:-55:-51 **4** You can disregard that question and answer for now.

02:19:37 **5** (Whereupon the following discussion was had at the

02:22:39 **6** bench outside the hearing of the jury:)

02:22:39 **7** THE COURT: I responded, it seems to me like were

-08:-55:-51 **8** there other speeders you didn't catch. Maybe I missed

-08:-55:-51 **9** something. What's the basis for the objection?

-08:-55:-51 **10** MR. HARTMAN: That was part of it, too, but the

-08:-55:-51 **11** other part is if they get any further into this I'm going to

-08:-55:-51 **12** want to get into it on cross, and I'm going to want to get into

-08:-55:-51 **13** things they are going to object to and call it privileged.

-08:-55:-51 **14** THE COURT: So anyway.

-08:-55:-51 **15** MR. SOFER: I'm not trying to get into the

-08:-55:-51 **16** specifics. Sort of the allegation has been made here that

-08:-55:-51 **17** somehow Mr. Griffin is on some gravy train and that it's somehow

-08:-55:-51 **18** connected to arresting people. And all I'm trying to bring out

-08:-55:-51 **19** is the fact a lot of his work --

-08:-55:-51 **20** THE COURT: I think it's already clear, and I don't

-08:-55:-51 **21** think you can contend that was sort of a bounty hunter

-08:-55:-51 **22** relationship, bring in a raccoon skin, you get so much; coyote

-08:-55:-51 **23** skin, so much. But in terms of the fact that there was likely

-08:-55:-51 **24** information on other people, the government decided not to

-08:-55:-51 **25** prosecute or convict, I don't think that matters. If anything

-08:-55:-51 **1** goes more to the government's determination, or the quality of a
-08:-55:-51 **2** prosecutable case or, maybe I don't know, I have no idea, you
-08:-55:-51 **3** might go out to another group of people. I agree with him. I
-08:-55:-51 **4** think they're going to say why, why not.

-08:-55:-51 **5** MR. SOFER: I understand. The point I want to
-08:-55:-51 **6** bring out is broader than this. Maybe the Court will --

-08:-55:-51 **7** THE COURT: That is?

-08:-55:-51 **8** MR. SOFER: A lot of Darren Griffin's work was
-08:-55:-51 **9** collecting information about things that would not necessarily
-08:-55:-51 **10** be criminal cases at all. In fact, his job is to collect
02:22:40 **11** information from all kinds of places.

-08:-55:-51 **12** THE COURT: You've already asked it in terms of the
-08:-55:-51 **13** investigation and intelligence gathering. I think perhaps you
-08:-55:-51 **14** should say: What was the general nature of that work? And
-08:-55:-51 **15** perhaps even lead: Was it criminal investigation or
-08:-55:-51 **16** intelligence gathering? Let him lead a little bit. Then I
-08:-55:-51 **17** think he'll simply say it was intelligence gathering. That's
-08:-55:-51 **18** fine. You're entitled to do that.

-08:-55:-51 **19** MR. HARTMAN: I don't have a problem with that.
-08:-55:-51 **20** (End of sidebar.)

02:22:42 **21** THE COURT: The jury will disregard the last
-08:-55:-51 **22** question and answer, but Mr. Sofer you may continue.

-08:-55:-51 **23** MR. SOFER: Thank you, Judge.

02:22:48 **24** BY MR. SOFER:

02:22:51 **25** Q. Can you explain to the jury why it would be important to

-08:-55:-51 **1** the FBI for Darren Griffin to collect information on people who
02:23:02 **2** have not and may never be arrested or prosecuted in a case?
02:23:06 **3** **A.** Yes. A couple of different issues related to that.
-08:-55:-51 **4** One of them is that due to what it is we were asking Mr. Griffin
-08:-55:-51 **5** to do, it was necessary for him to spend time in the local
-08:-55:-51 **6** Islamic community. So he spent a lot of time at various social
02:23:26 **7** gatherings and attending the Mosque and classes and that sort of
-08:-55:-51 **8** thing. In addition to that, it's receiving information;
-08:-55:-51 **9** receiving information can be valuable to us in terms of who owns
-08:-55:-51 **10** or who is likely to own various companies or organizations or
-08:-55:-51 **11** are members of certain entities, who travels where, who may be
-08:-55:-51 **12** going where, who may be meeting with who, a variety of pieces of
02:23:54 **13** information that may help us actually determine in some cases
-08:-55:-51 **14** that information received through other avenues indicates that
-08:-55:-51 **15** individuals might not necessarily be a threat to the United
-08:-55:-51 **16** States. So just the general obtaining of information helps us,
02:24:13 **17** leads into the FBI to determine in some cases whether or not
02:24:19 **18** those individuals or entities about whom he's gathering
-08:-55:-51 **19** information do indeed constitute a threat or not.
02:24:26 **20** **Q.** Now, you said that Darren Griffin was sent sort of into
-08:-55:-51 **21** the Muslim community here in the Toledo area; is that correct?
-08:-55:-51 **22** **A.** That is correct.
-08:-55:-51 **23** **Q.** Were there steps taken to limit Darren Griffin and the
02:24:38 **24** FBI's activities to ensure that religious beliefs and
02:24:41 **25** sensitivities were not offended?

-08:-55:-51 **1** A. Yes, there were.

-08:-55:-51 **2** Q. Can you tell the members of the jury what some of those
02:24:47 **3** steps were?

-08:-55:-51 **4** A. I can. A couple of items come immediately to mind.

-08:-55:-51 **5** One of them is that frequently Mr. Griffin would be reminded

02:24:56 **6** that we're not the thought police and that we're not interested

-08:-55:-51 **7** in what people were thinking and their religious expression.

02:25:06 **8** Mr. Griffin was also instructed that to the extent possible he

-08:-55:-51 **9** should not record prayers and to not record speeches and

02:25:14 **10** presentations that were given in the Mosque because we weren't

02:25:18 **11** interested in those things.

-08:-55:-51 **12** Q. Was Darren Griffin told he could record conversations of

02:25:22 **13** anybody and everything he came upon in his work for the FBI?

-08:-55:-51 **14** A. No, he was not.

-08:-55:-51 **15** Q. Can you give us a basic description of what instructions

-08:-55:-51 **16** he was given in this regard?

-08:-55:-51 **17** A. Yes. Mr. Griffin was instructed that there were

02:25:35 **18** specific individuals that we were interested or tasked with

02:25:41 **19** obtaining information on and recording conversations of, in some

-08:-55:-51 **20** cases those people would be with other people, and those people

-08:-55:-51 **21** would also be recorded.

02:25:50 **22** Q. Were there times when these three defendants became

02:25:55 **23** persons of interest or people who the FBI was specifically

02:26:01 **24** investigating?

-08:-55:-51 **25** A. Yes, they did.

02:26:03 **1** **Q.** Now, did the FBI encourage Darren Griffin to spread this
02:26:11 **2** cover story or identity throughout the community here?

02:26:15 **3** **A.** Yes. He was encouraged to make his background known,
-08:-55:-51 **4** to utilize that in developing his persona as an Islamic
-08:-55:-51 **5** extremist. I would add, though, that Mr. Griffin had to be
-08:-55:-51 **6** somewhat circumspect in the places where he shared that story.
-08:-55:-51 **7** If you were too outspoken or too boisterous we were afraid he
-08:-55:-51 **8** would be dismissed as an informant. So he had to be somewhat
02:26:44 **9** circumspect about where he spread that story.

-08:-55:-51 **10** **Q.** Did the FBI assist or participate in helping craft this
02:26:52 **11** cover story that Darren Griffin developed?

-08:-55:-51 **12** **A.** We did.

02:26:56 **13** **Q.** Was Darren Griffin ever given any formal training by the
-08:-55:-51 **14** FBI on how to be a cooperating witness?

-08:-55:-51 **15** **A.** He was not.

02:27:03 **16** **Q.** Did the FBI give Darren Griffin certain equipment for
-08:-55:-51 **17** his use during the course of this investigation?

-08:-55:-51 **18** **A.** Yes, we did.

-08:-55:-51 **19** **Q.** Can you give the members of the jury a basic description
-08:-55:-51 **20** of some of that?

-08:-55:-51 **21** **A.** Yes. Mr. Griffin was equipped with audio recording
02:27:20 **22** equipment and video slash audio recording equipment, that is a
02:27:26 **23** device that we do both. Those were some of the primary tools
-08:-55:-51 **24** that he used.

02:27:30 **25** **Q.** Was Darren Griffin -- what was he told about how he

-08:-55:-51 **1** should utilize those recording devices, that is those that

02:27:37 **2** recorded audio and those that recorded audio and video?

-08:-55:-51 **3** **A.** He was given instruction in -- basic instruction in how

-08:-55:-51 **4** to turn the device on, how to turn the device off and given some

-08:-55:-51 **5** indication of the amount of memory on each of the devices so

-08:-55:-51 **6** that he could make decisions about, during the course of a day,

-08:-55:-51 **7** if he had several devices and several different interactions to

-08:-55:-51 **8** have, he could make decisions about how long to utilize each

02:28:02 **9** device.

02:28:03 **10** **Q.** Were there times throughout the investigation that you

-08:-55:-51 **11** would meet with Darren Griffin and provide him with sort of

02:28:09 **12** general and specific guidance about how and what to discuss with

02:28:15 **13** these three defendants?

02:28:16 **14** **A.** Yes.

-08:-55:-51 **15** **Q.** Were there ever times when technical problems with the

02:28:21 **16** devices meant that there were none available or that one or

-08:-55:-51 **17** another of them was sort of out of service?

-08:-55:-51 **18** **A.** Yes, there were. There were several occasions in which

-08:-55:-51 **19** that was the case.

02:28:31 **20** **Q.** Were there ever times when there was simply no device

02:28:34 **21** available at all because it was being used in some other FBI

02:28:37 **22** operation?

-08:-55:-51 **23** **A.** Yes, there were.

-08:-55:-51 **24** **Q.** Was Darren Griffin ever told that he was required to

-08:-55:-51 **25** record every part of every conversation?

-08:-55:-51 **1** A. No, he was not.

-08:-55:-51 **2** Q. Was he ever told that he was required to record every
-08:-55:-51 **3** part of every conversation with these three defendants?

-08:-55:-51 **4** A. No, he was not.

02:28:55 **5** Q. Was he ever told that he had to record some part of
02:28:59 **6** every conversation with these three defendants?

-08:-55:-51 **7** A. No, he was not.

02:29:03 **8** Q. Why not?

-08:-55:-51 **9** A. As a practical matter, Mr. Griffin spent several years
02:29:09 **10** living in this environment, and he -- if he had been given

02:29:13 **11** instructions to record every conversation, it would be

02:29:18 **12** voluminous computer discs with conversations on them, and it

-08:-55:-51 **13** would be a practical impossibility to listen to all of them.

-08:-55:-51 **14** Q. Now, what type of -- you said there were two sort of

02:29:29 **15** general type of devices, one that recorded audio and one that

02:29:32 **16** recorded both audio and video?

-08:-55:-51 **17** A. Correct.

02:29:35 **18** Q. Which of those devices had the longer memory or storage

-08:-55:-51 **19** a capability?

02:29:41 **20** A. As a general matter, the audio recording devices could

-08:-55:-51 **21** go for a greater length of time.

-08:-55:-51 **22** Q. Can you tell the members of the jury why not just always

-08:-55:-51 **23** use the video?

-08:-55:-51 **24** A. There are a couple of reasons for that. One of them is

02:29:54 **25** the limited availability of these devices. It's my

-08:-55:-51 **1** understanding they're very expensive and that the FBI has
-08:-55:-51 **2** limited number of them. We have far more audio recording
02:30:04 **3** devices. In addition to that, there were complications. Mr.
02:30:12 **4** Griffin didn't know exactly where the camera was aimed, so to
-08:-55:-51 **5** speak. He wouldn't know if you were capturing someone's image
02:30:21 **6** or not on the device. Clothing would fall in front of it. As
-08:-55:-51 **7** a general matter, the audio device had a little higher quality
-08:-55:-51 **8** in terms of the quality of the audio recording.

02:30:36 **9** **Q.** Did there come a time when the FBI gave Darren Griffin a
02:30:40 **10** laptop computer?

-08:-55:-51 **11** **A.** Yes, there did.

-08:-55:-51 **12** **Q.** Can you describe that device for the members of the
-08:-55:-51 **13** jury?

-08:-55:-51 **14** **A.** A basic Dell laptop computer.

-08:-55:-51 **15** MR. SOFER: Would you put up Exhibit Number 3,
02:30:52 **16** please?

02:31:04 **17** BY MR. SOFER:

02:31:04 **18** **Q.** I'm going to show you what's been marked as Government's
-08:-55:-51 **19** Exhibit Number 3 -- or not.

-08:-55:-51 **20** Again, can you just describe it for the members of
02:31:20 **21** the jury?

02:31:20 **22** **A.** Yes. It's a basic laptop computer. The -- it said
02:31:28 **23** Dell, when it's closed. It's sort of a silverish gray color.

02:31:35 **24** **Q.** What, if anything, was Darren Griffin told about the use
02:31:39 **25** of this laptop computer for this and other investigations?

-08:-55:-51 **1** A. He was told to utilize it as he would his personal
-08:-55:-51 **2** laptop computer.

02:31:48 **3** Q. Did you use the Dell laptop as well?

-08:-55:-51 **4** A. I did on a few occasions, yes.

02:31:54 **5** Q. We've managed to go through the analog method of the

02:32:02 **6** picture. I'll show you what is actually marked Government's

-08:-55:-51 **7** Exhibit 3-A. Does that appear to be the Dell laptop computer

-08:-55:-51 **8** that was given to Darren Griffin for use in this investigation?

02:32:15 **9** A. It does.

02:32:21 **10** Q. You said you used it as well?

-08:-55:-51 **11** A. I did.

-08:-55:-51 **12** Q. Can you tell us why?

-08:-55:-51 **13** A. Yes. I recovered it from Mr. Griffin on several

-08:-55:-51 **14** occasions. One, to obtain some information from the laptop

02:32:34 **15** computer, that is to take some videos and some materials off of

-08:-55:-51 **16** the laptop computer.

-08:-55:-51 **17** Q. Specifically was there a particular video that you

02:32:44 **18** recall being on that laptop computer?

-08:-55:-51 **19** A. Yes, there was.

-08:-55:-51 **20** Q. What was that?

-08:-55:-51 **21** A. An instructional video on how to build a bomb vest.

02:32:53 **22** Q. Go ahead, I interrupted you.

-08:-55:-51 **23** A. In addition, on at least one occasion I had to place

02:33:00 **24** some antivirus software onto the laptop computer. I also, on

-08:-55:-51 **25** another occasion, used the laptop computer to create a

02:33:10 **1** PowerPoint presentation and place it on the hard drive of the
02:33:13 **2** laptop.

02:33:14 **3** **Q.** What was the PowerPoint presentation about?

-08:-55:-51 **4** **A.** The PowerPoint presentation was a depiction of six or
-08:-55:-51 **5** eight different weapons, different guns, for example AK-47, a
-08:-55:-51 **6** Glock 19, that were present in the environment in Iraq.

02:33:32 **7** **Q.** Was Darren Griffin ever told not to use this laptop
02:33:36 **8** computer for personal reasons?

-08:-55:-51 **9** **A.** He was not.

02:33:38 **10** **Q.** And were you aware that Darren Griffin had a personal
-08:-55:-51 **11** computer in his home?

-08:-55:-51 **12** **A.** Yes, I was.

02:33:44 **13** **Q.** Was he ever given instructions by you as to what he
-08:-55:-51 **14** could and could not use that computer for?

-08:-55:-51 **15** **A.** No, he was not.

-08:-55:-51 **16** **Q.** I want to go back to the recording devices that you
-08:-55:-51 **17** described. Can you describe for the jury how you and the FBI
02:33:58 **18** use the recordings that Darren Griffin made during the course of
02:34:01 **19** this investigation?

02:34:02 **20** **A.** Yes. We utilize recordings in a couple different ways.

-08:-55:-51 **21** One of them is to verify the veracity of what it is Mr. Griffin

-08:-55:-51 **22** was telling us, verify the information he was telling us was

-08:-55:-51 **23** indeed correct. As well as because Mr. Griffin could not -- he

-08:-55:-51 **24** couldn't take notes during the course of his interaction with

02:34:24 **25** other people, the recordings served as the best record of what

02:34:30 **1** occurred. It was an exact -- it was exactly what happened.

02:34:34 **2** **Q.** Were you also receiving regular oral briefings with

-08:-55:-51 **3** Darren Griffin?

02:34:39 **4** **A.** Yes, I was.

02:34:40 **5** **Q.** And were there certain kinds of things that Darren

02:34:45 **6** Griffin, for instance, was unable to fully describe in the oral

-08:-55:-51 **7** briefings that the tapes could provide instead?

-08:-55:-51 **8** **A.** Yes, there was.

-08:-55:-51 **9** **Q.** Can you give us an example of something like that?

02:34:54 **10** **A.** Yes. For example, Mr. Griffin doesn't understand Arabic

02:35:00 **11** perfectly; he has some understanding of Arabic. But when the

-08:-55:-51 **12** defendants around him would have conversations in Arabic, the

02:35:10 **13** device would pick that up and we could take that and give that

-08:-55:-51 **14** to a translator.

02:35:18 **15** **Q.** Try to keep your voice up if you can.

-08:-55:-51 **16** **A.** I'm sorry.

02:35:24 **17** **Q.** Were all of the recordings that Darren Griffin made

-08:-55:-51 **18** using the devices that you described reviewed by you or other

02:35:33 **19** members of the FBI in this matter within hours, days, a couple

-08:-55:-51 **20** days, a few days after they were made?

-08:-55:-51 **21** **A.** Yes. In most cases they were reviewed within a few

-08:-55:-51 **22** days.

02:35:45 **23** **Q.** Can you give the jury a description of the timing and

-08:-55:-51 **24** the relationship between the interactions between Darren Griffin

02:35:56 **25** and the defendants, and then the actual recordings, and also the

-08:-55:-51 **1** oral briefings that you received from Darren Griffin and then
02:36:05 **2** your review of these tapes, how that sort of went?
-08:-55:-51 **3** A. Yes. Mr. Griffin would be given at least a device, in
-08:-55:-51 **4** some cases several devices, in preparation for the next day's
02:36:19 **5** activities, and he would have interactions with persons
-08:-55:-51 **6** throughout the day. He -- that evening or the next morning, I
-08:-55:-51 **7** would meet with Mr. Griffin. He would give me the devices.
02:36:30 **8** He would give me a summary of what had occurred at each of those
02:36:35 **9** environs in which he met with someone. And we would record
-08:-55:-51 **10** that information, place that information into what the FBI calls
02:36:43 **11** a 302 Report of Investigative Activity. And then the device
-08:-55:-51 **12** would be taken back to the Toledo resident agency where they --
02:36:54 **13** the information was placed onto a computer disk, the device was
02:36:59 **14** prepared for reuse and then taken back to Mr. Griffin in
02:37:03 **15** anticipation of the next day's activities.
02:37:05 **16** Q. And I think you said in most cases you were able to
-08:-55:-51 **17** shortly thereafter listen to the recording itself?
02:37:11 **18** A. Correct.
-08:-55:-51 **19** Q. Were you able to determine the consistency between the
02:37:15 **20** oral briefings that Darren was giving you and the actual tapes?
-08:-55:-51 **21** A. Yes, I was.
-08:-55:-51 **22** Q. Can you describe that for the jury?
02:37:25 **23** MR. BOSS: Objection.
02:37:27 **24** THE COURT: I would agree.
-08:-55:-51 **25** MR. SOFER: Why the agency did what it did and how

-08:-55:-51 **1** it proceeded in the investigation.

02:37:39 **2** THE COURT: I would agree. If you want to go into

02:37:41 **3** details about specific briefings, I'm not so sure it's relevant.

02:37:49 **4** THE COURT: Why don't you perhaps rephrase.

02:37:51 **5** MR. SOFER: I'll come back to it specifically.

02:37:51 **6** BY MR. SOFER:

02:38:00 **7** **Q.** Can you tell the members of the jury --

02:38:01 **8** THE COURT: Do you want to come up right now?

02:38:03 **9** MR. SOFER: No.

-08:-55:-51 **10** THE COURT: The jury will disregard the question

-08:-55:-51 **11** now. We can revisit it at sidebar if you want.

02:38:10 **12** BY MR. SOFER:

-08:-55:-51 **13** **Q.** Can you tell the members of the jury what your primary

02:38:14 **14** objectives were in operating Darren Griffin as a human source

-08:-55:-51 **15** for the FBI in this particular matter?

-08:-55:-51 **16** **A.** Yes. First, we wanted to keep him safe, to keep his

02:38:24 **17** family safe. We wanted to verify the information that he was

-08:-55:-51 **18** giving to us, verify the summaries that he was giving were

-08:-55:-51 **19** indeed accurate. And then to collect information initially.

-08:-55:-51 **20** Then as the investigation progressed, to collect evidence of

02:38:46 **21** criminal activity.

02:38:51 **22** **Q.** I want to talk a little bit about some of the specific

-08:-55:-51 **23** events that occurred during the course of this investigation.

-08:-55:-51 **24** Did you become aware of the fact that Mohammad

-08:-55:-51 **25** Amawi gave Darren Griffin discs throughout the course of the

02:39:06 **1** investigation?

-08:-55:-51 **2** **A.** Yes, I did.

02:39:08 **3** **Q.** And did you have discussions with Darren Griffin and did

-08:-55:-51 **4** you consider issues with respect to giving those discs back to

-08:-55:-51 **5** Darren Griffin after he brought them to the FBI?

02:39:23 **6** **A.** Yes. Based on Mr. Griffin's position, that is he was

02:39:29 **7** going to be in constant contact with the defendants, I thought

02:39:33 **8** it was necessary for him to have those computer discs available

-08:-55:-51 **9** to him should he be asked for one or more of them. If he were

-08:-55:-51 **10** not able to produce these computer discs in a timely fashion, we

02:39:47 **11** were concerned that the defendants may begin to suspect that he

-08:-55:-51 **12** was an informant.

02:39:54 **13** **Q.** Now, we've heard a lot about the suicide bomb vest

-08:-55:-51 **14** video. Did there come a time in January of '05 when the FBI

02:40:02 **15** learned through Darren Griffin about the existence of this bomb

02:40:07 **16** vest video in this case?

-08:-55:-51 **17** **A.** Yes, we did.

-08:-55:-51 **18** **Q.** Can you describe for the jury what the FBI's interest in

02:40:14 **19** this particular video was and why?

02:40:16 **20** **A.** Yes. The FBI was very interested in obtaining a copy

-08:-55:-51 **21** of that video because we had heard that it provided some

-08:-55:-51 **22** specific instruction in how to conduct or how to put together a

-08:-55:-51 **23** bomb vest, and we were very concerned about obtaining a copy of

-08:-55:-51 **24** that so we could ascertain -- it would help us ascertain the

-08:-55:-51 **25** level of threat in this particular matter.

02:40:43 **1** THE COURT: Help you ascertain the level of what?

02:40:47 **2** THE WITNESS: Level of threat.

02:40:51 **3** BY MR. SOFER:

-08:-55:-51 **4** **Q.** Likewise, we've heard about a chemical compound known as

-08:-55:-51 **5** Astrolite. Did the FBI have an interest in this particular

02:40:59 **6** chemical compound in the context of this case? When I say the

-08:-55:-51 **7** FBI, I mean you and your fellow agents who were conducting this

02:41:08 **8** investigation.

-08:-55:-51 **9** **A.** Yes, we were concerned that we obtain as much

-08:-55:-51 **10** information as possible about Defendant Amawi's overseas contact

02:41:16 **11** who wanted this chemical and wanted to take this chemical

-08:-55:-51 **12** through Syria into Iraq. We were very concerned about obtaining

02:41:26 **13** the identities of people associated with that.

02:41:29 **14** **Q.** Can you tell us how that sort of fits into the FBI's

-08:-55:-51 **15** mission as you described it of identifying threats?

-08:-55:-51 **16** **A.** Yes. The information of that nature comes very close

02:41:41 **17** or much closer to actually perpetuating or actually committing

-08:-55:-51 **18** an act. And we were very concerned that this pipeline, if you

-08:-55:-51 **19** will, of persons potentially involved in this distribution of

-08:-55:-51 **20** this chemical, that we discover their identity so we can prevent

-08:-55:-51 **21** a terrorist act from occurring.

-08:-55:-51 **22** **Q.** Now, there was also quite a bit of discussion in the

-08:-55:-51 **23** recordings about sniping and explosives and gun training. Can

-08:-55:-51 **24** you tell the members of the jury whether the FBI's -- sort of

02:42:22 **25** what the FBI's concerns were with respect to this training?

02:42:28 **1** MR. BOSS: Judge, can we approach for a moment?

02:44:17 **2** (Whereupon the following discussion was had at the

-08:-55:-51 **3** bench outside the hearing of the jury:)

-08:-55:-51 **4** MR. BOSS: The FBI is a rather large agency. I'm

-08:-55:-51 **5** wondering if you might be a bit more specific when you say "the

-08:-55:-51 **6** FBI".

-08:-55:-51 **7** MR. SOFER: I think I did that already.

-08:-55:-51 **8** THE COURT: You did that. But I agree. I think

-08:-55:-51 **9** I would ask -- I would prefer that you say your interest or the

-08:-55:-51 **10** interest that you and those working with you in the JTTF.

-08:-55:-51 **11** MR. SOFER: I agree. I should be doing that more

-08:-55:-51 **12** often. I'll try to make that clear.

-08:-55:-51 **13** THE COURT: Do you mind if I simply say: You've

-08:-55:-51 **14** heard reference to the FBI, you understood that to mean you or

-08:-55:-51 **15** your colleagues?

-08:-55:-51 **16** MR. SOFER: I'll clear it across the board. There

-08:-55:-51 **17** were very general --

-08:-55:-51 **18** THE COURT: Once in a while when you have that,

-08:-55:-51 **19** institutionally, the FBI.

-08:-55:-51 **20** (End of sidebar.)

02:44:21 **21** THE COURT: Mr. Sofer, I sustained the objection to

02:44:24 **22** the last question. Mr. Sofer may rephrase.

-08:-55:-51 **23** MR. SOFER: Thank you, Judge.

-08:-55:-51 **24** BY MR. SOFER:

02:44:28 **25** Q. I've asked you a series of questions with respect to

-08:-55:-51 **1** this investigation, in particular things that took place in this
02:44:34 **2** investigation about the FBI's interest or concerns. When you
02:44:41 **3** describe the FBI's interest and concerns, are you describing
02:44:46 **4** your concerns and your fellow agents who were working on this
-08:-55:-51 **5** investigation as well as your immediate supervisors and the
-08:-55:-51 **6** like?

02:44:53 **7** **A.** Yes.

-08:-55:-51 **8** **Q.** I asked you a couple questions a long time ago.

02:44:58 **9** THE COURT: You've been asked, quote, the FBI-this
-08:-55:-51 **10** or the FBI-that, it was your understanding you responded on the
02:45:08 **11** basis that was what you were talking about, individually or
02:45:12 **12** collectively, with those working with you in this particular
02:45:16 **13** investigation?

02:45:17 **14** THE WITNESS: Yes.

02:45:18 **15** THE COURT: Okay. Go ahead, Mr. Sofer.

02:45:21 **16** BY MR. SOFER:

-08:-55:-51 **17** **Q.** Now, with respect to the kind of training that was being
-08:-55:-51 **18** discussed, did you and your fellow agents working on this case
-08:-55:-51 **19** have concerns about what kind of training and guidance Darren
-08:-55:-51 **20** Griffin could actually provide?

02:45:38 **21** **A.** Yes, we did.

-08:-55:-51 **22** **Q.** And specifically with respect to the sniper training and
-08:-55:-51 **23** the building of explosives, can you describe for the members of
-08:-55:-51 **24** the jury what those concerns were?

-08:-55:-51 **25** **A.** Yes. We were -- we absolutely were not going to allow

02:45:54 **1** Mr. Griffin to give specific instruction on how to build an IED.

02:46:00 **2** We instructed Mr. Griffin to not give them specific ideas on how

-08:-55:-51 **3** to put together a bomb, nor was he to give them specific

02:46:10 **4** instructions on how to conduct a sniper attack. We wanted to

02:46:15 **5** draw the investigation out as long as we could in order to -- in

-08:-55:-51 **6** order to collect as much information as possible about potential

02:46:25 **7** threats, each of the defendants indicated other people that they

-08:-55:-51 **8** were aware of that would be interested in obtaining Jihad

02:46:36 **9** training or training for Jihad. And we wanted to obtain as

-08:-55:-51 **10** much information about those people as possible but were not

-08:-55:-51 **11** going to provide specific training on how to build an IED or

-08:-55:-51 **12** specific training on how to conduct a sniper attack.

-08:-55:-51 **13** **Q.** Was Darren Griffin given specific guidance to misdirect

02:46:56 **14** the defendants to something that was less concerning to the FBI

-08:-55:-51 **15** and to you and your colleagues in the FBI?

-08:-55:-51 **16** **A.** Yes, he was.

-08:-55:-51 **17** **Q.** Now, here when I talk about the FBI, this concern

02:47:08 **18** actually wasn't limited just to you and the people on the ground

-08:-55:-51 **19** here in Toledo?

-08:-55:-51 **20** **A.** That is correct.

02:47:16 **21** **Q.** Okay. I want to direct your attention then to the end

-08:-55:-51 **22** of the case.

-08:-55:-51 **23** Do you recall giving Darren Griffin instructions

02:47:24 **24** about leaving town essentially?

02:47:26 **25** **A.** Yes, I did.

-08:-55:-51 **1** Q. Can you give a basic description to the members of the
-08:-55:-51 **2** jury how that happened and what instructions were given to Mr.
-08:-55:-51 **3** Griffin?

-08:-55:-51 **4** A. Yes. Within the FBI the decision was made to end the
02:47:40 **5** investigation. Mr. Griffin was told that it would be.

-08:-55:-51 **6** MR. HARTMAN: Objection.

-08:-55:-51 **7** THE COURT: I would tend to agree. I don't see
-08:-55:-51 **8** the relevance of this.

02:47:50 **9** MR. SOFER: I can tell you at sidebar or here.

02:47:53 **10** (Whereupon the following discussion was had at the
02:47:55 **11** bench outside the hearing of the jury:)

02:50:45 **12** MR. SOFER: What's the objection?

-08:-55:-51 **13** THE COURT: My question is, where are you going

-08:-55:-51 **14** with this? If the FBI said we were concerned for his safety,

-08:-55:-51 **15** I'm a little worried about that because it's generic

-08:-55:-51 **16** apprehension without any specific basis to something these

-08:-55:-51 **17** people said or did. I assume that's what you guys are getting

-08:-55:-51 **18** at.

-08:-55:-51 **19** MR. HARTMAN: Exactly.

-08:-55:-51 **20** MR. SOFER: Again, I didn't understand what the

-08:-55:-51 **21** nature was. When you said relevance -- I didn't want to say

-08:-55:-51 **22** too much. All I want to bring up is he was basically told to

-08:-55:-51 **23** get out of town, get out of town quickly. That explains why it

-08:-55:-51 **24** is, for instance, a number of the items that were recovered

-08:-55:-51 **25** ultimately by the government, in the fashion. Collect up his

-08:-55:-51 **1** house and get out of town. I think some brief discussion of
-08:-55:-51 **2** why that is necessary is appropriate. But if you want me to
-08:-55:-51 **3** limit it just do the timing issue.

-08:-55:-51 **4** THE COURT: Let me suggest this: Rather than,
-08:-55:-51 **5** quote, get out of town quickly, I'll suggest was it suggested to
-08:-55:-51 **6** Mr. Griffin that he should leave Toledo and do so fairly
-08:-55:-51 **7** promptly and according to your understanding did that cause him
-08:-55:-51 **8** to leave various things behind that only later came to the
-08:-55:-51 **9** attention of the bureau, or whatever. Just kind of side blow
-08:-55:-51 **10** it. I don't want any suggestion -- or if this is the case,
-08:-55:-51 **11** say, Agent, you didn't have any specific reason to apprehend any
-08:-55:-51 **12** of these defendants, might pose any danger, did you. If that's
-08:-55:-51 **13** true, why don't you soften that with that kind of...

-08:-55:-51 **14** MR. SOFER: I wouldn't ask that question. I
-08:-55:-51 **15** believe that's a cross-examination question.

-08:-55:-51 **16** MR. HARTMAN: No, go ahead.

-08:-55:-51 **17** THE COURT: I don't want a suggestion lingering in
-08:-55:-51 **18** their mind unless there's some clear basis for it that somehow
-08:-55:-51 **19** these guys or people they knew, you knew, had come to your
-08:-55:-51 **20** attention or that of the bureau or anybody else, you better get
-08:-55:-51 **21** out because they're after you. I don't want that impression.

-08:-55:-51 **22** MR. SOFER: I understand. Again, it's the timing
-08:-55:-51 **23** issue that's important. I'll limit it.

-08:-55:-51 **24** (End of side-bar discussion.)

02:50:48 **25** THE COURT: Okay, the jury will disregard the

-08:-55:-51 **1** entire question.

-08:-55:-51 **2** But you may rephrase and proceed.

02:50:57 **3** BY MR. SOFER:

-08:-55:-51 **4** **Q.** Did there come a time when you had a conversation with
02:51:01 **5** Darren Griffin about leaving the Toledo area?

-08:-55:-51 **6** **A.** Yes.

-08:-55:-51 **7** **Q.** And was that at approximately the time that this case,
02:51:10 **8** the investigative portion or the initial investigative portion
-08:-55:-51 **9** was coming to a close?

-08:-55:-51 **10** **A.** Yes.

02:51:16 **11** **Q.** And did you inform Mr. Griffin that he had to leave in a
02:51:21 **12** certain amount of time?

02:51:22 **13** **A.** A general time frame, yes.

-08:-55:-51 **14** **Q.** Can you tell the members of the jury about how much time
02:51:28 **15** the FBI, that is you, gave Darren Griffin to leave the Toledo
-08:-55:-51 **16** area?

02:51:33 **17** **A.** My recollection is approximately two days.

02:51:40 **18** **Q.** I want to direct your attention to April 20, 2005,
02:51:44 **19** another specific area of this particular case. On April 20,
02:51:51 **20** 2005, did you receive recordings from Darren Griffin?

02:51:55 **21** **A.** I believe I received a recording either that evening or
-08:-55:-51 **22** the first thing the next day.

-08:-55:-51 **23** **Q.** And they related, among other things, to what?

-08:-55:-51 **24** **A.** They related to, I believe, a telephone conversation

02:52:11 **25** that Mr. Griffin had with the Defendant Marwan and the other

-08:-55:-51 **1** recording, I believe, related to Mr. Griffin's attendance at
02:52:23 **2** Cleland's Indoor Shooting World with the Defendants Wassim
-08:-55:-51 **3** Mazloun and Mohammad Amawi.
02:52:32 **4** **Q.** Did Darren Griffin also provide you with an oral
02:52:36 **5** briefing when he turned in those recordings?
02:52:39 **6** **A.** Yes, he did.
-08:-55:-51 **7** **Q.** And was there anything unusual about one or more of
-08:-55:-51 **8** those recordings when you received them?
02:52:46 **9** **A.** There was.
02:52:47 **10** **Q.** Can you tell the members of the jury what was unusual?
-08:-55:-51 **11** **A.** Yes. On the recording device that had recorded Mr.
-08:-55:-51 **12** Griffin's interaction with the defendants at Cleland's Indoor
-08:-55:-51 **13** Shooting World, Mr. Griffin had not turned the device off. The
-08:-55:-51 **14** device was allowed to continue, and it recorded, at least in
-08:-55:-51 **15** part, a telephone conversation between Mr. Griffin and myself.
02:53:13 **16** **Q.** And did you analyze both that recording, that is the
-08:-55:-51 **17** Cleland's, and then the accidental recording that occurred after
-08:-55:-51 **18** it as well as the recording of the telephone conversation
02:53:27 **19** earlier in the day?
02:53:28 **20** **A.** Yes, I did.
-08:-55:-51 **21** **Q.** Did this analysis cause you any concern with respect to
02:53:32 **22** Darren Griffin's recording?
-08:-55:-51 **23** MR. HARTMAN: Objection, Judge.
02:53:38 **24** THE COURT: Why don't you come on up.
02:53:42 **25** (Whereupon the following discussion was had at the

02:57:29 **1** bench outside the hearing of the jury:)

02:57:29 **2** THE COURT: The question is the basis for concern?

-08:-55:-51 **3** MR. HARTMAN: The basis of my objection is his

-08:-55:-51 **4** assessment of the recordings really doesn't matter. The

-08:-55:-51 **5** recordings speak for themselves.

-08:-55:-51 **6** THE COURT: Where are you headed with this? My

-08:-55:-51 **7** real concern is to find out what the testimony is going to be.

-08:-55:-51 **8** It's kind of like an ad hoc committee voir dire in effect. I

-08:-55:-51 **9** just want to know what's coming so that we don't try to unring

-08:-55:-51 **10** the bell.

-08:-55:-51 **11** MR. SOFER: This is back to sort of the general

-08:-55:-51 **12** consistency between things. And Your Honor said, well, if you

-08:-55:-51 **13** want to bring up a specific instance, you said we'll get back to

-08:-55:-51 **14** you, which is, in fact, where we are. Counsel has opened to

-08:-55:-51 **15** the jury, has argued to the jury, will continue to argue to the

-08:-55:-51 **16** jury that somehow this interaction on April 20 is a lie that was

-08:-55:-51 **17** told to the agent.

-08:-55:-51 **18** THE COURT: Which interaction?

-08:-55:-51 **19** MR. WITMER-RICH: April 20.

-08:-55:-51 **20** MR. SOFER: Their argument -- and Counsel can stop

-08:-55:-51 **21** me if I'm wrong or they can let me say something that is wrong,

-08:-55:-51 **22** I don't really care. Their argument essentially is by not

-08:-55:-51 **23** reporting both that certain aspects of the first conversation

-08:-55:-51 **24** that took place -- that Darren Griffin somehow withheld

-08:-55:-51 **25** information from the FBI. Now, if that was true, and the agent

-08:-55:-51 **1** continued to operate Darren Griffin in the way that he was and
-08:-55:-51 **2** he was not given an opportunity to explain his mindset, it makes
-08:-55:-51 **3** him look like what he's doing is essentially one of: Here's a
-08:-55:-51 **4** guy that's lying to me; I'm going to keep putting him out there.
-08:-55:-51 **5** I think that's a bad implication. We want to try to rectify
-08:-55:-51 **6** that by asking the agent simply: Did he determine there was
-08:-55:-51 **7** anything about this which was in any way inappropriate or wrong?
-08:-55:-51 **8** So in this particular instance, it explains --

-08:-55:-51 **9** THE COURT: Let me suggest this. I think you used
-08:-55:-51 **10** the word. Perhaps rephrase: On review of those recordings
-08:-55:-51 **11** what, if any, concerns did you have about what was going on?
-08:-55:-51 **12** Something like that.

-08:-55:-51 **13** MR. SOFER: I'm happy to do that, Judge.

-08:-55:-51 **14** THE COURT: He'll say none. I assume he'll say
-08:-55:-51 **15** none.

-08:-55:-51 **16** MR. SOFER: Yes.

-08:-55:-51 **17** MR. HARTMAN: Well, if that's the question and
-08:-55:-51 **18** answer I have no problem with it.

-08:-55:-51 **19** THE COURT: What, if any, -- you reviewed the two
-08:-55:-51 **20** recordings -- yes -- on that day, including the inadvertently
-08:-55:-51 **21** recorded conversation. Following that, what, if any, concerns
-08:-55:-51 **22** did you have about what Griffin was doing or what was going on?
-08:-55:-51 **23** Something of that sort.

-08:-55:-51 **24** MR. BOSS: Will you be moving on after that

-08:-55:-51 **25** question or further probing with him on that issue at this time?

-08:-55:-51 **1** MR. SOFER: I think I'll be moving on. Just to be
-08:-55:-51 **2** clear here on cross-examination, I'm certain this is going to be
-08:-55:-51 **3** something --

-08:-55:-51 **4** THE COURT: You'll get rebuttal. If they
-08:-55:-51 **5** undermine that, keep digging.

-08:-55:-51 **6** MR. SOFER: They're going in that direction.

-08:-55:-51 **7** (End of sidebar.)

02:57:36 **8** THE COURT: Is there some problem with the
-08:-55:-51 **9** monitors? I won't tell you, even though it's April 15, what
-08:-55:-51 **10** the government spent turning a rather shabby looking courtroom
02:57:56 **11** into the splendid place that this is for trial, just because
02:57:59 **12** some pieces may be falling apart in your lap may be distressing.
-08:-55:-51 **13** But we'll -- Amy will call that to the attention of the repair
-08:-55:-51 **14** crew. We'll try to keep things from collapsing.

02:58:16 **15** MR. SOFER: I'll rephrase the question.

-08:-55:-51 **16** THE COURT: Disregard the last question.

-08:-55:-51 **17** But you may proceed.

02:58:20 **18** BY MR. SOFER:

-08:-55:-51 **19** Q. You analyzed the telephone conversation that was
02:58:23 **20** recorded between Darren Griffin and Marwan El-Hindi; is that
-08:-55:-51 **21** correct?

-08:-55:-51 **22** A. That is correct.

-08:-55:-51 **23** Q. You also analyzed the recording which I think also had
-08:-55:-51 **24** video on it, if my memory serves correct, from the April 20
02:58:38 **25** interaction with the defendants?

02:58:39 **1** A. That is correct.

-08:-55:-51 **2** Q. At Cleland's?

-08:-55:-51 **3** A. Correct.

-08:-55:-51 **4** Q. And that also captured your conversations with Darren

02:58:46 **5** Griffin?

02:58:46 **6** A. Correct.

02:58:47 **7** Q. What, if any, concerns did you have when you listened to

-08:-55:-51 **8** those two conversations?

02:58:53 **9** A. I didn't have any concerns.

02:58:55 **10** Q. Now, did Darren Griffin give you those two recordings at

-08:-55:-51 **11** the same time?

-08:-55:-51 **12** A. Yes, he did.

02:59:04 **13** MR. SOFER: Judge, subject to the Court's approval.

-08:-55:-51 **14** This would be a good place to break for lunch.

02:59:09 **15** THE COURT: Okay. Why don't we try to resume at

02:59:18 **16** 1:00.

02:59:19 **17** Ladies and gentlemen, as you heard me say so often,

-08:-55:-51 **18** keep an open mind, don't talk about the case, and we'll see you

02:59:26 **19** at 1:00.

20 (Recess taken.)

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C E R T I F I C A T E

I certify that the foregoing is a correct transcript from the
record of proceedings in the above-entitled matter.

<u>/s Tracy L. Spore</u>	_____
Tracy L. Spore, RMR, CRR	Date

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